Truth Rescued
FROM
IMPOSTURE.
OR
A Brief REPLY to a meer *Rapsodie* of *Lies*, *Folly*, and *Slander*;

But a pretended *Answer*, to the *Tryal* of *W. Penn*, and *W. Mead* &c. writ and subscrib'd S. S.

By a profest Enemy to Oppression.
W. P.

A Fools Lips enter into Contention, and his Mouth calleth for Strokes, *Prov.* 18. 6.
A Whip for the Horse, a Bridle for the Ass, and a Rod for the Fools Back, *Prov.* 26. 3.

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Truth Refused

FROM

IMPOSTURE

To the READER.

I *Take him to be an* unhapy *man, that knows not an Enemy upon Earth; and therefore judge my ſelf not a little* happy *to be ſo ill reputed by* S. S. *that of all men, I have reaſon to believe one of the moſt* infamous. *Yet, that I may be juſt to him, as well as to my ſelf, I do beſeech the* Reader, *firſt to peruſe his* Fardle *of Impoſtures, and Abuſe, before thou read'ſt me; leſt thou ſhouldſt think I have wrong'd him in citation:* So ſcurrilous, ſo falſe, and withal ſo ridiculous is, he in his whole conceited Enterprize, *that but a little charity would make one think, that no man could be ſo great an Enemy to* Truth, *and to* Himſelf.

Surely, his Fondneſs of being in Print, wholly blinded his diſcretion, or elſe methinks he would have ſtopt't, to give ſo great an evidence of his Folly.

One would have thought it Impudence *enough, to act ſuch* Tyranny *without an* Appology *to defend it. But as that's an aggravation of his Gilt; ſo let the man remember, that* Litera ſcripta manet.

I know it well become his Front, *and every part thereof bears exactly his reſemblance.*

'Tis pitty but all the Peoples Enemies *ſhould give as* wiſe *grounds of their abuſe, of them, and their Laws, as this* Man *has done.*

I am concern'd in a double ſence: Firſt, in defence of my Conſcience, *and therein, the* Liberties *of my* Country. *And next, of the* Reputation *of my* deceaſed Father, *by him*

injur'd, beyond the instance of a Presedent, *or allowance of an Excuse.*

Being then, thus boysterously attaqu'd in my Religious, Civil *and* Natural Capacity, *let not any wonder, that I imply the* force *of all to my just defence; And if I have so much credit with the* Reader, *believe me, I will (without the least Scruple) give him his* compleat weight and measure: *for I desire not to hold my* Life *or* Liberty, *on better terms, then whilst I am bold to justifie the* Truth *at any Cost, against the false and peevish* Essays *of her* Adversaries.

Truth

Truth Reſcued from Impoſture, &c.

Part I.

I Have to do with one, who dares to profeſs himſelf a *Patriot* and that of ſo great importance to his Country, as on his happy Cry of (*Miles noli regem ferire*) the Safety of King and Kingdom have their ſole dependance. Page 1.

But, as I am perſwaded, that piece of *Arrogancy* was unexpected by moſt, and his inability too notorious, to admit any the leaſt jealouſie of ſuch an Enterprize; ſo has he given the greateſt Stroke imaginable to himſelf, and thoſe he would ſeem to vindicate, in offering at the poor *Quakers*, for whom *his weakneſs makes ſufficient Appollogy*, and amongſt them, I am not the leaſt, that ought to account my ſelf indebted.

The ſecond diſcovery of himſelf, is not leſs *Incharitable*, then the firſt was *Proud* and *Impudent*.

He does not only take occaſion to fall moſt fooliſhly upon our Tryal, but as unwarrantably believes 'twas I that writ it; but ſhould I grant him ſo much *Faith* (*for I believe him to have little*) I ſhall appeal to all impartial men, If a bare Conjecture (and more he proves not) be ground ſufficient for him to vent ſo many rank Reflections, and that not only upon my ſelf, but my *deceaſed Father*: It either argues he had better Intellegence, in the following Pages, or that his deſire I ſhould be *Author* of it, had changed his *Faith* into a *fancied Certainty*, which gives ſufficient teſtimony of his Prejudice. Page 1.

And as if he doubted there might have been another *William Penn*,

Penn, that might be an whole *Quaker*, he is pleaſed to diſtinguiſh me from him, with this diminitive Expreſſion, of *William Penn the half Quaker*, thereby intimating how much worſe he ſuppoſes *half Quakers* to be, then *whole Ones*; for none can think he ſaid ſo *out of Kindneſs to me*, when his Diſcourſe not only ſingles me out for all Abuſe; but as not contented with that, *diſturbs my Fathers Grave* with his forg'd Aſperſions, and then places them to my *Accompt*.

But whilſt I think not my ſelf a little injured by his ſcurrilous *Epethite* (*believing he meant, I was not a ſincere, but intereſted and turbulent One*) I heartily rejoyce, *that out of his own Mouth he has juſtified my Friends*, by preferring an *intire Quaker*, before all *half, or mungril Ones*; yet if an half one be ſo fatal, and heavy on the Shoulders of Oppreſſors, *that they do ſcarce dare to own their own Appologies, how dreadful muſt an whole One be*; He ſays in this Expreſſion, ſo much for us, that he ſcarcely needs more againſt himſelf.

But becauſe he believes I writ it, *therefore he can give it no other Name* (to uſe his own words) *but the Second Part to his Blaſphemous Treatiſe, called the Sandy Foundation ſhaken*: O egregious Nonſence! This ridiculous *Non ſequitur*, either ſhews him, to have been a man of a very flegmatick head, or elſe that he has ill beſtowed his time, who can write no better ſence yet; for, that theſe two Subjects are in the nature of them very different, is manifeſt. But perhaps he thinks it no ſmall piece of *Blaſphemy, to tell the World of the late irregular Proceedings at the Old-Baily*: Nor does he leſs wound his own Cauſe by acknowledging the Book entituled, *The Peoples Ancient and Juſt Liberties Aſſerted*, (which deſigns to detect, on what Foundation the *Mayor, Recorder, &c.* did proceed) to be the ſecond part to the *Sandy One*, manifeſtly implying *theirs to be ſuch*.

Page 1.

His ſenſe of my *Faith*, or rather *Disbelief* of the *Trinity* is a wretched Miſtake, not to ſay a voluntary one; for I never quarrelled the word *Trinity*, it being borrowed of the Latine word *Trinus*, in Engliſh *Three*, but alwayes did, and do believe the ſame.

But why ſhould I inſiſt upon a Point ſo abſtruſe; and that, to a man, ſo unintelligent in more minute matters, as that he hath not yet

yet learnt a distinction betwixt Discourses of *Civil Liberty*, and *Divine Faith*, but ignorantly makes the one, to be a necessary Consequence, from the (*Supposed*) Mistake in the other.

I might here over-look his abusive Reflections upon me, as *Author of the Trial, &c.* (which he urges with no small Zeal) by unconcerning my self in the matter: But I confess to owe so much of Real Kindness to the Author, and many parts of the Discourse, that I shall gladly imbrace the occasion of making his Defence.

The *Man* resolving I must be the Author, sets me up as such, and then fights me, or rather pelts Dirt at me: He says that, Penn *does not blush to Vilifie the Kings Court, and falsly Reproach the Kings Justices, and revile all Methods of Law, calling Indictments detestable Juggles*; *and his, a Romance Indictment*; *and* W. Mead, *his, a Bundle of Stuff*: Page 1. Page 2.

Penn *designing, in a popular way, to subject the Laws, making the Jury Judges both of Law and Fact.*

If I had blusht, it must either have been from mine own Guilt, or by way of reflection from the *Bench*; but as I was wholy innocent of that *Crime*, which could have made me conscious; so was there not *Modesty* enough, amongst some of the Bench to *blush* at their *Irregularities*.

I detest that *Aspersion, of vilifying Law, or reproaching the Kings Justices*; since the greatest Crime some observed against me, whilst at the Bar, *was my frequent Demands of Right*, by those very Fundamental Laws, I am charged to have contemned.

These are but meer *Phrases* of Abuse, ready at every mans hand, for his interest,

Indictments I Esteem not *Juggles*: nor do I believe the Author intended so; but that way of crouding most unnecessary and untrue Allegations, under the pretence of Form of Law, contrary to all Reason, is no less: This is explained by him, and his own sence fully vindicated.

He therefore understood what he said, when he compared the falsity of our *Indictment*, to that of a *Romance*, which however methodical, yet is but *meer Fancy still*. For those things being absent that render an *Indictment* true, it will follow that such an

Indictment,

Indictment, is altogether incongruous and inapplicable. It is an hard Case that men should so *Nickname* things, as to call an *honest Confidence*, *Impudence*; and my asserting of *the Supremacy of Fundamental Laws*, against their *new Inbreachments*, a subverting of them.

I Rejoyce to think, that many were there present, whose relation of that Transaction, has done me the justice of a vindication, and given our *Tryal* the Credit; which it is utterly impossible for the endeavours of *S. S.* and his *malicious Cabal*, ever to diminish or traduce.

He makes it a *Capital Crime* to assert the *Jury*, *Judges of Law and Fact*, but poorly shifts off those Arguments aptly used by the *Author* of the Tryal, in defence of his position: for farther satisfaction I referr the Reader to the Fourth Part of this Discourse.

He says I was commanded to the *Bale-Dock* for *Turbulency* and *Impertinency*: I confess, if I had been as Guilty as I was innocent, of being so offensive, they had been very incompetent Judges, whose own passion rendred them so much what they say of me, that many Spectators questioned, *If they were themselves.*

They that read the Tryal may quickly inform themselves of my kind of *Impertenency*, and with the same trouble, of their *Billingsgate Rhetorick*, in Phrases so scurrilous, that never did *Men* subject themselves, to a more deserved Censure of want of common Civility, then at our *Tryal*.

But the man breaks forth into an *extatical Caution*, to
Page 2. those of the *Long Robe*, lest we should assassinate their Persons, at least besiege and rifle *their Westminster Hall*: His words are these, *Now Gentlemen of the Long Robe, look to your selves, and your* Westminster *Hall.* And why? Because *that Juries are affirmed to be Judges of Law and Fact*; as if that were an overthrow to the Law, that the most learned and honest of the *Robe* made an hearty Profession of, in the sence urged.

But I appeal to those of the *Long Robe*, (as he stiles them) whether such Arbitrary Proceedings, as over-ruling all *Pleas*, *Verdicts*, *Prisoners*, and *Juries*, at the rate of the *Old-Baily*, 1st, 3d, 4th, 5th of *September*, 1670. with their severe Rebukes and harsh Menaces, be not more apparently destructive, of the Fundamental

damental Laws, in the free course of them, and practice of Lawyers; then the Authors *Assertion*, in his Discourse of the *Peoples Antient and Just Liberties, &c.*

He urges this Caution to the *Lawyers*, with no small pretence to *Reason* and *Rhetorick*; For says he, *If that these learned Reformers of Religion, shall likewise reform your Laws and Methods of Proceedings (as doubtless they design it) farewel then to your great Acquisitions, &c.*

But I must tell him, that as he is an incompetent Judge of Religion, that practices so little of any, so I publish a plain Challenge to him, and the old *Man* within the *Curtain (the Oracle of his Law Gibberish)* to produce an avow'd Instance, by any *Lawyer*, of the Irregularies and Arbitrary Actions, they vainly attempt to defend.

And whether our well-meant Plea, for English Priviledge, be most destructive of great Acquisitions, *or their unhinging the well hung Laws of* England, to turn all Tryals upon the sole *pin of Will and Power*, let the very *Lawyer* judge.

I affirm, such give the justest ground of bidding farewell, to all great *Acquisitions*, that are so ready to welcome *INQUISITIONS.*

He ventures to urge the *Great Charter*, and to give an Exposition, as *ridiculous*, as the other is *fictitious*; his kindness for the Law, *being to kill it, in palliating his real fear, and abhorrence of all good Laws, with his pretended respect for them.*

But of this I will say little, leaving it to an whole part by it self; and proceed to consider the rest of his *Wild* Reflections.

His comparison of us to *John* of *Leyden*, is ignorant and malicious. *Ignorant*, because he seems to know no better our Principles, that utterly abhor to promote Religion by Blood. *Malicious*, because he slanders us, without the least desert; *and seems not so much to heed the Truth, as odium of his Comparison:* And but that it is a vulgar Trick, to put the *Woolfs Skin upon the Sheep, and the Sheeps Skin upon the Woolf*, I should enlarge upon his ugly Epithites.

Part II.

S. S. his Anſwer to the pretended Calumnies of the TRYAL Conſidered.

HAving given my ſelf a looſe ſhake of the *Calumnies* of his firſt *Section* (ſaving that part which concerns the power of Juries, to be conſidered by it ſelf) I ſhall deſcend to examin his ſecond, if poſſibly I may find more of *Truth, Sence, and Civility.*

He pretends to ſo much Scripture (and which is worſe, applies it to his own ſhame) as to front his ſecond *Section* with the 9th and 10th Verſes of the Epiſtle of *Jude.*

Ver. 9. Yet *Michael*, the *Arch-Angel, when contending with the Devil, he diſputed about the Body of Moſes, durſt not bring againſt him a railing Accuſation, but ſaid, The Lord rebuke thee.*

Ver. 10. *But theſe ſpeak evil of thoſe things which they know not.*

Upon this *Text* he preaches thus. pag. 4.

Theſe People called Quakers (if they are to be believed) *will tell, they have this Angellical Spirit, the Meekneſs of* Moſes, *the Patience of* Job, *and all other Graces; but the contrary appears, fol.* 57. *of* W. Penns *Book, vide this Paſſage.*

But above all, Diſſenters had little reaſon to have expected that boariſh fierceneſs from the Mayor of London, *when they conſider his eager proſecution of the Kings Party under* Cromwels *Government; as thinking he could never give too great a Teſtimony of his Loyalty, to that new Inſtrument, which makes the old Saying true, viz. That one Renegado is worſe then three* Turks.

To which I anſwer, not as *W. P.* but as one they call a *Quaker.*

His application of the firſt Scripture will be this.

If *Michael* did not bring a railing Accuſation againſt the *Devil*—then the *Author* of the Tryal ſhould not have brought one againſt *him.*

It

It is ſo plain what he has ſaid of him, that we need not further *blacken him.*

But this latter part, he groſly miſ-underſtands, and miſ-applies; for tis deny'd, that any part of this Scripture affords one juſt Reproof, of that ſo much abuſed *Author.*

We know how frequently the *Devil* himſelf has taken to the Scriptures for a Refuge; and after this mans ſtrange conſtruction, *it will be railing to tell a man his Faults*: And truly, when I ſeriouſly conſider, how groſs and numerous his are, as by his very Book appears, *methinks he was hard put to it for a Covert.*

A railing Accuſation, *is a falſe*, as well as wrathful one, which he proves, pag. 5. therefore a true, though ſharp reproof is none.

I know it is the humor of ſuch, who would live unrebukt, to *render it more criminal to reprehend, then to commit a Fault*; that they may ſave their heads from the knock of juſt cenſure.

But who the *Railer* was, we ſhall take leave to mention in its place: However, what has this to do with *W. P.*

The ſecond Verſe we are equally unconcerned in. Could he have found a Text that ſays, *But theſe ſpeak well of thoſe things they know not*; he might have more approacht the matter by excluding our ſcience in the Law, in owning our great Good-will unto it. Of the latter, our Tryal, as by him repreſented, is a demonſtration; but I could wiſh he were no worſe, then thoſe concerned in that Scripture, *which was, to ſpeak evil of things they know not*: For I am perſwaded, *he ſpoke maligniſhly evil of things he knew did not deſerve it.*

We do not only tell the World, the tendency of our Doctrine is to incline mankind to *Meekneſs*, and *Patience*, *&c.* but we bleſs the God of Heaven and Earth, many ten thouſands do believe the ſame; and that on better Evidence, then hear-ſay, or bare report.

But whether *S. S.* or his Juncto, can with any tollerable ſhew of modeſty condemn the *Quakers*, as deſtitute of *Meekneſs* and *Patience*, who have ſo much wanted both, as they (Inſtrumentally)

tally) have given the cleareſt evidence of the contrary, *by their inhumane Perſecutions*, as well as we have done it, by Suffering the ſame, *I am ſure will be the Queſtion.*

Page 5. He begins his Appology thus. *An high Charge againſt* Sr. Samuel Starling, *then Lord Mayor,* (*if true*) Cujus contrarium verum; *and therefore a railing Accuſation; and that Light* (which is as they ſay) *within them* (by which they are acted, and ſpeak as they pretend) *is the ſpirit of the Devil, the Father of Lyes.*

Theſe words both deny, and give a *Charge*, but with how much Truth and Reaſon I ſhall examine, and begin with the latter.

I take this Expreſſion to be the moſt venomous of all his *Libel*, and ſeems to come hot from a Blaſpheming Gnaſhing Spirit, *through a vexed Conſtiouſneſs of Guilt.*

The *Light* we profeſs to be guided by, is ſo far from being the *ſpirit of the Devil*, the Father of Lyes; *that its of God, the Father of Truth.*

Here may be read the Text, inſerted in the Period of his Title Page, *For he ſpeaks evil of Divine Dignities*, who ſpeaks againſt the Light; for God is Light.

And he that ſays he hath Fellowſhip with God, and walks not in the Light, he lyes, and deceives himſelf.

And if this ſcurrilous *Libeller* had ever known what it was to obey this holy Light, he would have forborn ſo impudent an Aſſertion: But 'tis an evident ſign of a ſeared Conſcience as well as great ignorance, to publiſh to the World, *that Light is the ſpirit of the Devil*, and not of God.

How many times do the Scriptures commemorate *God* and *Chriſt* by this Epethite? Chriſt was promiſed by that very Name, *I will give him for a Light, to lighten the Gentiles.* And *John* ſaid of him, *That he was the true Light, that enlightneth every man.* And Chriſt gives this Teſtimony of himſelf, *I am the Light of the World.* Alſo the Apoſtle *Paul*, What ever is reproved, *is made manifeſt by the Light*, And *John* thus, *God is Light, &c. If you walk in the Light, as Chriſt is Light, &c.* And in the Revelations, The Lamb

ſhall

ſhall be thy Light, &c. And of God its ſaid, He dwells in Light God is Light, and in him is no Darkneſs at all, &c. But in this man there is the very *blackneſs of Darkneſs*, who calls *Light Darkneſs*, and *Darkneſs Light*, *Evil Good*, *and Good Evil*.

Next I cannot choſe but obſerve, how abruptly he falls from the matter of his Chapter, to blaſpheme our holy Light. *A high Charge, the contrary whereof is true: And that Light, which is in them, is the ſpirit of the Devil.* Behold the Confuſion and Incharity of the man; nay, a rude pulling upon his own head the Vengeance of the God of Light.

Did he, or any elſe, ever hear us pretend to own another *Light*, then in the Phraſes, and from the Scriptures before mentioned? I am aſſured they did not: And though I deny his Imputation, yet what if I, or any *Quaker* on Earth, or all of them, had acted injuriouſly to him, or any man; muſt that bleſſed Light, we ſay is given of God (and more then pretend we are guided by) be villified for our Failings?

Nor is it leſs then wretched Blaſphemy, for any to ſay, That becauſe *S. S.* is a moſt horrible Impoſter, *therefore the Grace, or Light which God has given him, is the Spirit of the Devil.*

But this proves to me his Impiety beyond all other Demonſtrations; for nothing's more common, then where men with wilful obſtienacy, have lived a rebellious and wicked life againſt Gods Light and Spirit in their Conſciences, there to ſpurn with gnaſhing Teeth, and ſcalded Tongues, in blaſphemous Expreſſions *againſt God, and his Tabernable, and thoſe that dwell in Heaven.*

But beſides, his very words carry ſuch Weakneſs and Confuſion with them, that I will eaſily from thence inferr, *a Vindication of our Light and Friends.*

And that Light which is (as they ſay) *then he does not ſay it, which implies, that he thinks (we lye, at leaſt are miſtaken)* within them (by which they are acted and ſpeak, as they pretend) *which ſuppoſes that he believes we are not really ſo acted, nor do we ſpeak by it, only that we make it our pretence*) is the ſpirit of the Devil, the Father of Lyes. If I underſtand him, or his words, this is the genuine and true conſtruction of them.

That Light, that is in them, is the ſpirit of the Devil the Father of Lyes; yet I wont ſay it; and I believe its but their pretence to ſay they act or ſpeak by it.

If this been't the very ſenſe of the words, none can be; and if this ſenſe doth not vindicate our *Light* in his own Thoughts, from being Diabolical, and *Us* from being led by ſuch a lying ſpirit, let the underſtanding Reader judge.

In ſhort, this I muſt and will ſay, by the knowledge of that Light, and for it, *That as it gives man the true Diſcerning, Weight, and meaſure of Spiritual things, with their differences; ſo can no man have acceſs to God, in any Duty or Action of his life, nor feel true Peace with him, or the cleanſing benefit of the Blood of Jeſus Chriſt (who is God over all bleſſed for evermore) but as he comes to be directed and guided by it to keep the Commands of God, and himſelf unſpotted from the World.* But trouble and remorſe of ſpirit ever was, and ever will be the Portion of ſuch as rebel againſt it. *In him was Life, and his Life the Light of men; If ye walk in the Light, as he is in the Light, ye ſhall have fellowſhip one with another, and the Blood of Jeſus ſhall cleanſe you from all Sin.*

More might be ſaid of this Particular, but I am perſwaded, here is enough to ſatisfie the Conſciences of all unbyaſt Readers.

The former part relating to his denial of the Charge of Diſloyalty and Temporizing, againſt him they call Sr. *S. Starling*; I ſhall ſo far take into my conſideration, in defence of the aſperſed Author of the Tryal, as to tell this Pariſite Libeller only what the World ſays of him, and particularly the City of *London*, which if not true, its both little to the purpoſe, and he is the more belyed; but firſt we will hear the Defence.

I think it neceſſary (ſays this Apologiſt) in his Vindication, to deſire the *Curteous Reader*, to enquire of Sr. *Ed. Deering*, Dr. *Whitcock*, Mr. *Chriſtopher Flower*, and *Francis Pemberton*, *Eſquires* of the *Middle-Temple*; *who can bear witneſs of his Loyalty at* Cambridge, *in the years* 1643, 1644, 1645.

And in the years 46, 47, 48, 49. *he apply'd himſelf to the ſtudy of the Laws, and could not be admitted to the Bar, becauſe he utterly re-*

fuſed

fused to subscribe the cursed Ingagement: Witness *Cornelius Hooker* Esquire, *Nicho. Jacob* Esquire, *both Barristers of* Greys-Inn, *and his Contemporaries.*

We want the Consequence. What? Was he therefore no Temporizer? Nothing less. Not that the reputation of the Persons named must therefore be impeacht, or lessened.

But some are ready to ask, why *S. S.* should think it fit to name so many Persons, in his Defence, and yet omit to insert a *Certificate* from any one of them: Their Testimonies are at best but in *Embrio* (*Unborn to us*;) nor is it possible they should be Witnesses of all the *Actions of his Life*. But granting what is said, to be true: Was he accused of Temporizing when a Boy at *Cambridge?* Although methinks tis indiscreetly urged, that we should ask of Dr. *Whitcock* if he were not compelled to leave the *University*, (*Loyalty* being out of fashion,) who remained a Master of a *Colledge* there. I do not mention it to spot that Doctor; for I know none of that Coat of a more universal Temper, and worthy of being esteemed learned; but to detect this ridiculous *Sribler* of Inadvertency.

I must confess, the first he refers to, I have an experienced knowledge of, and to whom I esteem my self oblieg'd by many high Instances of Kindness; which not so much, *as his own evenness of Temper*, would make me entertain more favourable Thoughts; but as he is cited to determine a Case, *not tim'd to the charge*, so is he wholly silent in the matter: And though his Name, with me, gives the most of reputation, to his whole Paragraph; yet, *Quod non Lego, non Credo.*

Nor is the Instance of being at *Grays-Inn* esteemed material to the purpose, it being of later times, to which the Reflection quarrelled with, has no relation, and therefore overlookt as frivolous to this Occasion, though some say, they talk as if there were no such matter.

But he hopes, to supply this defect, with this general and dubious Addition.

From 1650. *until his Majesties Restauration, he was a Trader in the City*; *and how he demeaned himself in those* Crumwellian *times*,

all that knew him will witneſs he walkt Antipodes to the genious of that Age, to the endangering of his Life and Eſtate. pag. 6.

Anſw. That this is a general reference, is manifeſt, and of whom to enquire he does not tell us: Would he have us ſend to enquire who knew him then, in order to know what he was then; ſome think it might have been as cheap for *S. S.* to particularize one in thoſe ten years time of Loyalty, which was to the Purpoſe, who Inſtanc'd ſo many before to no purpoſe. This leaves a ſtronger Jealouſie then before, but with none leſs then the *Quakers*, becauſe none are leſs concerned in the matter.

But that he was this invincible *Royaliſt*, he gives us this Inſtance.

His Majeſty being by Gods Providence reſtored, he was eſteemed for his Loyalty, a fit perſon to be of the Jury, upon the Kings Judges, and paſſed a Juror upon no leſs then Eighteen of thoſe Aſſaſſinating Traytors.

But how unwiſe, if not diſloyal, this expreſſion is, ſome think it may concern the King, at leaſt his Juſtices to conſider: as if that thoſe *Perſons* had not been condemned by indifferent men, ſway'd by the only force and ſence of Law; But ſuch, as *were therefore eſteemed fit to be of the Jury, becauſe averſly principled in point of Judgment and Affection*, I boldly affirm it a reflection ſo indiſcreet & malignant that it deſerves a check ſeverer, then any Expreſſion in the Diſcourſe, entituled, *The Peoples ancient and juſt Liberties Aſſerted*; and that not more from the Kings Juſtices, then the Perſon he would be thought to vindicate.

After all that he has ſaid, the *Apologiſt* thinks it *needleſs further to vindicate his Loyalty, ſince never queſtioned by any, but thoſe ſceptical* Quakers, *whoſe buſineſs is to aſperſe our Religion, Laws, and all men, that are not of their curſed Principles.*

Therefore he makes this offer; that if W. P. *can make out that the late Lord Mayor, ever wronged any of the Kings Friends, either in Body, Goods, or good name one penny, that he ſhall reſtore to the Gentleman, whoſoever he be, a thouſand pounds, for every penny worth of wrong.*

But

But as I do assure this Libeller, that some of eminent Rank, and no *Quakers* (as he is pleased to term them) were the first that took occasion to speak of that Persons *temporizing*; and therefore question'd by others; so is it an Aspertion wickedly groundless, that we *defame Laws, Religion, and all men, that are not of our Principles*, since we have ever been on the suffering hand; and still proclaim it as one of our *fundamental Points of Doctrine, to live peaceably and inoffensively*, which we have not onely done (notwithstanding all provocations) but resolve, in Gods strength, to continue *the same passive People we have ever been.*

Besides, I would fain know, why above others this offer should be made to *William Penn*; perhaps the *Author* of the *Libel*, thought him so great a *Child*, as to be insnar'd into such reflections, as would subject him to the Lash of *his Sr Samuel*, for a Defamer; but as I have learnt more prudence, so indeed more Religion.

I abhor to use Scurrility instead of Reason, and so should this Libeller, *of supplying the defects of his Cause by Railing.*

Were I a man as *bitter*, as S. S. shews himself *cholerick*; and but as apt to *revenge*, as he is to *wrong*, I might take this occasion to write the Stories of the times, concerning his *Patron*; But since I hear he denies it any *Patronage*; and that I know that these things are no wayes profitable to the *Reader*, but meer incentives to prejudice; I heartily forgive all, having otherwise learnt *Christ*; *and think it as well unmanly, as it is unchristian, to place the miscariages of any man, to the account of his Cause.* For though a *good Principle* may be profest by a *bad man*; yet is it impossible that a *bad man* should make that *good Principle bad*; and therefore its clear of any just suffering by his miscarriages. Nor is there any such *indigency* in the Case; for the Cause defended by *S.S.* is in it self so *weak* (not to say *wicked*) as we need not take *Sanctuary* to personal miscarriages, *the matter being too fruitfull of them.*

His base Reflections on my *Father*, shall be considered by themselves, and therefore I omit to answer them, as placed by him. But shall proceed to examine the remainder of his *Section.*

He

He charges the *Author* of our *Tryal* of falſe Accuſation, againſt Alderm. *Bludworth*, *that he mov'd at the Seſſions to have a Witneſs againſt* Harriſon *the Fryer*, *and Firer*, *ſent to* Bridewell *and whipt*; *affirming*, *that neither did Ald.* Bludworth *make any ſuch motion*, *nor did it appear*, *that Harriſon was a Fryer*, *or Firer.* pag. 7.

But as a bare denial is a weak *Apology*; ſo that he either threatned, or mov'd *to have an evidence againſt a ſuſpected Firerer*, *ſent to the Houſe of Correction to be whipt*, I have heard ſeveral affirm: But whether this be true or falſe, it concerns not the legality or illegality of the *Old Baileys procedure.*

As for *Harriſon*'s being a *Fryer*, I never believed it, nor can I think ſo meanly of the *Contrivers*, as that they ſhould imploy ſo witleſs an *Emiſſary* (at leaſt for an eminent *Agent*) But if *Harriſon* may be exempted from that concern, it follows not that the *Fryer* ſhould.

He pretends heartily to wiſh, *that theſe Libelling*, *Lying*, *and Diſcontented People*, *were as free of the deſign of putting the whole Kingdom in a Flame*, *as* Hariſon *was*, *from the actual firing of the City.* But I as heartily believe, that if as ſtrong an *Evidence*, and but half the Circumſtances (urged againſt *Harriſon*) had been brought againſt *Us*, to prove ſo deteſtable a deſign, *as that of inflaming the Kingdom*, we ſhould have hardly found that candid releaſe, I am ſure, not ſo kind an *Apology*; ſince *S. S.* ſticks not to ſuſpect *Us*, more of the *One*, then he does *Harriſon* of the *other.*

But whilſt he hypocritically uſes *Michaels* words to the *Devil*, *The Lord rebuke thee*, they are truelieſt apply'd to Himſelf; *whoſe Diabollical ſuggeſtions are plain diſcoveries*, *how chearfull he could Sacrifice us*, *to his malice and fury*; for which the *God* of *Heaven* and *Earth*, will *judge* and *recompence.*

The *Indiſcretion* of the *Recorder*, he rather aggravates, then defends; but it is ſo much his practice, through his whole Diſcourſe, that the wonder would be, to find it otherwiſe.

He begins thus: *The Accuſation againſt the Recorder is twofold. Firſt*, *That he ſhould ſay*, *that there would be a Law made the next*

Seſſion

Seſſion of Parliament, that no man ſhould have the protection of the Law, but ſuch as conform to the Church.

This ſaying of the Recorder *is falſly and maliciouſly recited. For he ſaid, we ſhall not always be at this trade with you; you will find, the next Seſſion of Parliament, there will be a Law made, that thoſe that will not conform to the Law, ſhall not have the protection of the Law.* pag. 8.

I hope, for the reputation of this *famous City*, their *Recorder* was not at the finding out of this *malicious difference* in the recital, as *S. S.* is pleaſed to tearm it. How much the two Expreſſions differ, or rather, how little, is obvious; ſince 'tis the word *Church* that makes it (if it makes any) I am of opinion, that the former is but a neceſſary explanation of the latter; for if the *Law* we muſt be conform'd to, relates to *Eccleſiaſtical Affairs*, then what's the difference, *betwixt our not receiving the protection of the Law, unleſs we conformed to the Church*, and our not receiving the protection of the Law, *unleſs we conform to a Law relating to the Church, or a Church Law.* The wretched *folly*, and *bald ſtupidity* of this *Libeller*, has wounded more the Perſons he would vindicate, then what the *Author* of the *Tryal* was ſuppoſed to do, with all his oppoſition.

What he means by thoſe *bleſſed Saints*, whom he ſays, *we follow, that made a Law, that thoſe that would not ſubſcribe the wicked Engagement againſt King and Houſe of Lords, ſhould not have the benefit of the Law &c.* we are to ſeek; and are as far from finding, by the help his ill-ſtockt *Ingenie* may afford us; but I perceive the *Man* can venture to *prophane* as well as *lye*, though his *wit* fails him more in the former, then his *wickedneſs* does in the latter. 'Tis ſad, that nought but holy ground will ſerve ſuch Swiniſh ſpirits to trample on.

But what if they acted *irreligiouſly*, and *inhumanly* too, muſt that be laid at their Doors, *who not only were unconcerned with them, but perſecuted by them?* and that for writing againſt the impoſition of that Engagement, and refuſing to take it: But if it was then eſteemed ſo great an *evil* by *S. S.* how comes it now to be tranſmuted to a moral good?

Was

Was it unreaſonable then, and is it reaſonable now? can the nature of a Perſecuting Act be changed, becauſe the Parties in point of power be?

His *lex Talionis*, is not *lex talionis* to us; for never having ſuffered by us, *there is no ground for retaliation or revenge.*

But we underſtand the mans meaning, and ſtill fail not to meet with frequent inſtances of his wiſhes for us. I ſhall conclude this *Section* with one of them, and the moſt *fatal* both to *Religion* and the *Law.*

The ſecond *Accuſation* againſt the *Recorder* is, that he ſhould ſay, *Till now I never underſtood the reaſon of the pollicy and prudence of the Spaniards, in ſuffering the* Inquiſition *amongſt them, and certainly it will never be well with us, till ſomething like the Spaniſh Inquiſition be in* England. pag. 9.

The Infererence the Libellers make, is, what doth this but juſtifie that helliſh deſign of the Papiſts, to have prevented the firſt Reformation?

This is a wretched and uncharitable conſtruction of the Recorders *words. Theſe words do no wayes juſtifie the Papiſts, if theſe Libellers had but the leaſt grain of Charity, they would have conſtrued the words,* cum grano ſalis, *as the Rule of Charity directs all words to be conſtrued.*

And they will admit of no other conſtruction, but this, viz. *That if the Papiſts be ſo pollitick and prudent by their Inquiſition, to maintain their falſe Religion, ſurely it will be the* Proteſtants *prudence to find wayes, for the preſervation of their true Religion.* pag. 9.

I have been very faithfull and patient in the recital of this *poor Defence*, of which I can give no better Character, *then that 'tis like the reſt.*

'Tis manifeſt, *the words are granted*, I now hope they will not be longer diſ-believed when confirmed by the hands of two Witneſſes, the *Author* of the Tryal, and this *priviledged S. S.*

But he ſays, it ought to be conſtrued *cum grano ſalis, with allowances*, and *in the beſt ſenſe*, which Counſel had been tollerable from any, but from him that has ſhown himſelf ſo void of any; and that which is the Maſter-piece of all his *foolery*, is, his ridi-

culous

culous Conſtruction he makes of it Himſelf; as if that could be a good Way of preſerving the *Proteſtant Religion*; that is an *Helliſh ONE* in the *Papiſts*. But why an *Helliſh One?* Becauſe it intends to force to an *Hetrodox Religion*, and not rather by reaſon of the coercive barbarous Nature of the Puniſhment it ſelf. And can any think, that an Inquiſition, to inforce Men to Confeſs to the Proteſtant FAITH, is not equally Cruel, with that of the Papiſts.

The *Proteſtants* would be ſo far from having any Advantage upon the *Papiſts*, for the Inhumanity of his Inquiſition, that his own Practice would ſeem but *The Second Edition of the* Papiſts *Cruelty*. It is not either of thoſe Names that renders it more or leſs lawful, but the Nature of the thing it ſelf. And had this Libeller but ever read the ancient *Proteſtant Apollogies*, he might have better informed his peeviſh Mind of their Opinions.

The true Religion took ever *Sanctuary* to its own *Innocency* and *Verity*, and not to the *Dumb Materials of External Force.*

But this Expreſſion would make one think, that under a *Proteſtant Profeſsion, there lodgeth a Popiſh Spirit*; and that the ſame *Intereſt*, which urged *Spain* to erect an *Inquiſition*, in the *Recorders* ſence, ſhould obliege *England* to employ the ſame Helliſh Tyranny, to torture her poor *Diſſenters*, (though Free-born *Natives*.)

But if that were his Meaning, and ſuch Counſel ſhould be taken, it were endleſs to conſider the unexpreſſible Miſeries, that would attend us: *All Law would be ſubjected to the zealous Anathemas of Eccleſiaſtical Officers; and Religion ſpeak no other Language, then that of* INQUISITION. We have hitherto boaſted much in the *Self-evidencing verity of the* Proteſtant *Faith*, but this were to bring it juſtly into jealouſie with all; that having

ſo long decryed *Coercive Power, ſhould vehemently employ it, to its own promotion.* The *Papiſts* would not only have cauſe to believe the ground of primative Seperation, was ſingle *Intereſt*, but an Example to their hand, what meaſure they ought to meet to the *Pooteſtants* abroad; which reduceth all Religion in a way of ſubſerviency to the Government, and Conſcience to its Conveniency: But this had been forgotten, as well as it is forgiven, had not the *Inadvertency* of *S. S.* brought it the ſecond time upon the Stage.

Part III.

Part III.

A Vindication of my Deceaſed Fathers Reputation, from the Falſe and Unworthy Reflections of this Scandalous Libeller.

SInce to Diſturb the *Grave*, and Rake into the *Aſhes of the Dead*, was ever held deteſtable with *Infidels*; we may on eaſie tearms inform our ſelves, to what an ebb of Vertue this man has brought himſelf, who is ſo *dry* of all Chriſtianity, that there remains not the *leaſt Drop* of that vulgar Decency, eminently in *vogue* with very *Heathens*: For as with them ſuch might juſtly be accus'd, as were not diſabled from anſwering for themſelves; ſo Death having diſlodged the Perſons of any, *their Charity eſteemed it a protection to their Names*; from whence came that common Saying, *De mortuis nil niſi bonum*, Let us ſpeak no ill thing of the Dead.

But though this be urg'd, yet that its as ill obſerv'd by S. S. I ſhall proceed to ſhew.

He takes occaſion in the cloſe of his defence of *S. Starling*, *to fall thus heavily upon me and my Father*, as if he could not do the one without the other.

But I ſuppoſe this wild rambling Colt, W. Penn, *miſtakes, when he chargeth theſe things upon the late Lord Mayor, he means his SEIR deceis'd.*

Doubtleſs the *Man was toucht*: What courſe Similitudes are theſe? Did ever man ſo *Brute* himſelf in Print? But I diſpiſe his *Drayiſh Terms*, and apply my ſelf to ſcan the matter, leaving him to wipe himſelf, of that Dirt, he thought to caſt on others.

I had ſo little reaſon to doubt my *Fathers conſtancy*, that in the ſenſe debated, I know few of greater.

'Tis true, He was actually ingaged, both under the Parliament and King, but not as an Actor in our late Domeſtick Troubles; his Compaſs alwayes ſteering him to eye a National Concern, and not Inteſtine Wars; and therefore not ſo aptly theirs, in a way of oppoſition, as the Nations.

His Service therefore being wholly Forrain, He may be truly ſaid to ſerve his Country, rather then either of thoſe Intereſts, ſo far as they were diſtinct to each other; and for this *Evil*, I hope he may be held excuſable.

But the Rayler proceeds [*Who from a Captain was made* Oliver's *High Admiral, for his great Service, in promoting that new Inſtrument.*] Which is a Lye ſo impudent, as both his Commiſſion, and Men of note can prove, That Firſt, he made no ſuch extempory leap, as is ſuggeſted to have been his *Recompence*, for promoting *Crumwells Intereſt*; but paſt through many known Offices, as of *Rere-Admiral*, *Vice-Admiral*, and *Admiral* of *Ireland*, and *Vice-Admiral* of *England*. before he had the *General ſhip* conferred on him.

And Secondly, That *Oliver* was but then General himſelf, and not proclaim'd *Protector* till ſeveral Moneths, if not above a Year after the death of General *Dean*, whom my *Father* immediately ſucceeded. And therefore a very *Forgery*, that for promoting that *new Inſtrument*, he firſt was advanced to the Office of *High-Admiral*. I would that this Libeller ſhould know, that from a *Lievtenant*, he had paſt through all the *eminent Offices of Sea-Imployment*, and arrived to that of *General*, about the *Thirtieth Year of his Age*; *in a time*, *full of the biggeſt Sea-Action*, *that any Story mentions*; and when neither

Bribes,

Bribes, nor *Alliance*; *Favour*, nor *Affection*, but *Ability only could Promote*. I write not this to *Vaunt*; *it is below my Principle and Practise*; but to defend an abused Relation, I could say no less.

He adds [*Who afterwards did eminent service, for the* English *Nation, at* Hispaniola, *when he delivered the Flower of the* English-Souldiery *a Sacrifice to the* Cow-killers,] This is an Untruth so manifest, that no man, making Conscience of telling Lyes, did ever charge it on him. Tis most notorious, that his imploy, was only as *General of the Fleet*: And that the Miscarriage lay not there, the History of that Affair not only relates, but the Libellers own words prove: For what had he to do with the English Army? who, First, had no command over them, it being the Charge and Office of a distinct *General*. And next, He never went a shore during the whole Exploit (but at *Barbadoes*, many Hundred Leagues short of the Theater on which that Tragedy was acted,) And Lastly, Let me tell the Man, *That when the Forelorn and Land-Generals Regiment were Routed*, it was the *Sea-Regiment (commanded by* Vice-Admiral W. Goodson) *that stood the shock, and stopt that Deluge.*

And not to reflect on any, but Vindicate my *deceast Father*; that Conquest, which was in any respect obtained, was owing mostly to the *Fleet, and that no less by Land then Sea.*

But why the FLOWER of the *English Army*? 'Tis manifest. The man had better Thoughts of those Times then he dares express; For what he rails furiously against elsewhere, as *Persons imposing the Wicked Engagement, and Assassinating Traitors, &c.* He now *intitles to the Defence of the* English *Nation.*

And since the then *English Army*, was the remainder of those Souldiers, that not only subverted the Kings Forces, but Protector'd *Oliver Crumwell*; it is evident he makes it his Army (at least) so far as he was concerned in being an *Englishman.*

Besides,

Beſides, methinks the man bemoans their loſs, *though in Circumſtances very untrue*; for neither were they the *Flower* of that Army (I thought they had been all Weeds in his account) *Nor could the Flower of them have been ſacrificed to the Cow-killers:* But the *Author of that ingenious Pamphlet, of the Worlds Miſtake in* Oliver Crumwell, has rendred a true Reaſon of that Miſcarriage, *viz.* That becauſe the Deſign was laid in *Avarice* and *Pride, hoping by the inexhauſtible Wealth of the* Indies, *to have eſtabliſht a new Gentry and Nobility, as a Foundation for a new Monarchy*; Heaven *ſet it ſelf againſt the* Enterprize. *And therefore 'twas not ſo much the Miſcarriage of the People there, as the juſt Vengeance of the Almighty, for making that unjuſt War with* Spain, *and diſguizing the Deſign to the* Spaniſh *Ambaſſador, with reitered Diſſimulations, and horrible Impoſtures*, as the ſame Author more at large relates.

I then ſubmit to the judgment of ſober men, if this Reflection carries the leaſt of *weight or verity with it.*

But he will not leave the Matter here; for ſays he, *This was the Renegado, worſe then three* Turks, *that performed ſuch excellent Service, in the late* Ducth Wars, *in Plundering the two* Eaſt-India Dutch *Ships of the Prize-Goods, for which he was turned out of the* Houſe *of* Commons.

I ſhall ſtill wave his ſurrility, and attend the Matter: His Service in the laſt *Dutch War*, will not be queſtioned by any man, that dares to ſet his Name to it: Not that I would be thought to juſtifie Wars; *I know they ariſe from Luſts.* But this being matter of Fact, I ſhall take leave to tell this Libeller, that the ſucceſs of the firſt Engagement, *where about Twenty Four Ships were Taken, Burnt, and Sunck; Two Thouſand Five Hundred Priſoners (ſaid to be) brought home, beſides what were ſlain, and wounded of the* Hollanders; *at the expence of but one old* Duch Prize *(that for want of ſail fell into their Body)* and about *Three Hundred Engliſh Men ſlain*, has been greatned, beyond all

all *common Ellogies, by the insuceesfulness of later Engagements, whence greater things were promised and expected.*

In short, how far he was a *Master of his Art*, both as a Seaman, and as a General; I leave to the Observation of his *Friends, his own constant success, and what hereafter may come to publick view of his own Remarks.*

As for that false Aspersion, of Plundering the *Dutch East-India-men*, I shall avouch my *Narrative* of the Fact to be true, being an Eye-Witness, and more then any concerned in what related to his Proportion.

'Tis not unknown that two such Ships were taken, though it was never known, nor believed, by any in their Wits, that they were worth the fifth part of what was vulgarly *bruited* in the World. One of them was taken by a *Captain*, belonging to his Squadron they call the *Earl of Sandwich*; and the other, by one of my *Fathers*: But that my Father *was ever on board of either*, or *that he would suffer her to be main'd by any of his own Ships-Company*; or *that he ever took, or caused to be taken, one Clove, Nutmeg, blade of Mace*, or *skain of Silk, the common Lading of the Prizes*; but by written Order from his Superior, as his share of the Divident (for about sixteen Moneths Service at Sea, and the expence of a constant Table) I utterly deny, and am perswaded, no man on Earth can ever prove; for could it have been, I am not ignorant how some of this Libellers *Complection, would have compast Sea* and *Land*, to have fecht him to *Brook-house*; but to as little purpose as others were; so that as from wrong Premisses there can be no true Conclusion; so to say he was therefore turned out of the *House of Commons* (or for any thing else) was a down-right Falshood; but *Suspensions* upon *Bills* against any Man, are *Customary.*

He concludes his Slanders and Scurrility with this Hope, *That my Father leaving so great an Estate of Just* (he means *Unjust*) *gotten goods to so Conscientious a Son, as my self, I will make satisfaction to the King.*

But

But as this *Fools bolt is soon shot* (and that to have an Estate in this Age, there seems nothing more requisit then that it be thought so) so do I affirm upon very good knowledge (if I may be credited) That after all my Fathers great, many, and continual Imployments in the World, for near Thirty Years past, and his frequent Opportunities of Inriching his *Family*; *he could never call himself Master of half that Estate, which is the private Acquisition of ordinary Merchants* (not to say *Brewers*, and for ought I know Just-gotten Goods too) And if War be allowable with S. S. and the consequence of it; he has had many *single hits*, each of which might have enricht him more, then what he left, had he been but as forward to *Feather his own Nest*, as he was heartily inclined to acquit his Conscience in the discharge of his trust to his Country; of which I will give an Instance, to be attested by many.

Being *Admiral* in the *Streights* of the *Mediteranian*, about the years 50, and 51. many Prizes were taken, and some of great value: Amongst the rest, was one, that had Five Chests of *Silver* and *Gold*, amounting to several Thousands of Pounds; which he was so far from embezling (to his own use) or admitting of the plea of his *Captains* (*Distribute it amongst us, & if ever it be demanded, it shall be paid, or we will serve it out*) As he wholly denied his *Wife the curiosity of changing of but one piece of forreign Gold*; for its equal weight of our *own*. And as in those times there was two great a watch over such men in Employment, to inrich themselves at the cost of the Publick; so must I say, that his whole Employment at Sea, since the *Kings return*, was not above sixteen Moneths; and for his other Offices they admitted not of Perquisits; and I challenge the whole World to lay the *just ignominy* of but one *Bribe* to his charge; *though, to speak modestly, a thousand Families owe their advancement to his favour*.

But of how ill report and consequence it is, *that men devoted in life and estate, to the service of the Publick*, should meet with so ill entertainment from the hands of such *Privateers*, that never knew what it was to be of publick importance, may deserve the notice of all true *Patriots*.

For

But perhaps the Libeller thought, that I ought as well to *Inherit my Fathers Miſcarriages (if any) as his Eſtate*, which is contrary to Gods Practice, that imputes not the *Fathers Iniquity to the Son*: but that may be one reaſon why it is his; he ſhews a Mind not a little *Anger-bit*, who is not contented with the Living, *but beſieges the Tomb of the Dead for farther ſatisfaction.*

Yet after all his *Impudent Folly* and *Slander*, he concludes with, [*Taceo cætera, de mortuis nil niſi bonum.*] *but as he would make one believe, he could ſay worſe, ſo he would have us to think he had ſaid nothing*; who not only vented his worſt Abuſes, but what are in themſelves moſt *wretchedly falſe.*

And as his Saying, He ſhould ſpeak well of the *Dead*, when he had ſaid ſo *ill*, is a Contradiction; ſo his pretence of not ſaying more, is not leſs injurious; *for his ſilence has wrong'd us more, then his Diſcourſe: Since to Brow-beat the Dead, and Tryumph over their Graves, ſhows a greater want of Humanity, then I was willing to think the debauchery of our Age had reduc'd any man to; but the pregnant Inſtances of* S. S's *Accompliſhments have better inform'd me.* And whoſoever he is, *I wiſh him repentance of theſe Impieties, and ſincerely declare my hearty forgiveneſs of all his aggravating Injuries.*

Part IV.

The Grand Caſe in Controverſie, about the Power of *Juries*, clearly *Stated* and rationally *Reſolv'd*.

AS a deſerted *Path*, over-grown by Time, makes men to queſtion if it had ever been a *Way*: So the neglected caſe of *Juries Power*, over-run by the Inchroachments of the *Bench*, make many doubt if ever they had any.

I ſhall therefore endeavour to *State and Vindicate the power of Juries, from the Aſſault of Innovation; and re-inſtate them of that Authority and Priviledge they are intituled to, and defended in, and by the Fundamental Laws of* England.

1ſt [*Per Judicium parum*] As explained by the univerſal concurrance of *Laws* and *Lawyers*, we are to underſtand, A Jury of our Equals.

2d *That no man ſhall be Taken, or Impriſoned, or be Diſſeized of his Free-hold, Liberties, Free-Cuſtoms, or be Out-lawed, or Exiled, or any other way deſtroyed; nor we ſhall not paſs upon him, nor condemn him, but by the Lawful Judgment of his Peers, Or, by the Law of the Land*, 3 Hen. 9. 29.

This is the antient Law of the Land, Confirmed by thirty two Parliaments, acknowledged by all *Lawyers*; nay confeſt and quoted by the man in hand, pag. 3.

3d The Queſtion will be this, Whether from this Clauſe, and what is recorded as Explenatory and Confirmatory of it, there

there be sufficient to prove, *That Juries are Judges of Law and Fact.*

First, In order to the clear stating and full resolving of the Question, I shall explain briefly, and, rescue the latter part of this Law-text, from the wretched construction of *S. S.* which is this.

OR, *is either Disjunctive or Copulative; if Disjunctive, then it must imply some other Judges besides the Jury: If Copulative* (Or *for* And) *it still implies another Jurisdiction, besides that of the Peers or Jury*; his consequence is, that *Per Legem Terræ* (or the Law of the Land) in that place, *cannot* (as this Novice insinuates) *be understood to be the Tryal of the Jury*, but to be the tryal *both of Judge and Jury, according to that Maxim*, Ex facto jus oritur.

I must confess my self to be a *Novice* to this prepostorous way of Paraphrazing out of pure reputation.

Why if (*Or*) be disjunctive, it must imply some other Judges, I cannot see, and wonder at the mans impertenency (if whats so natural to him were to be wondred at) for though Expressions, or the manner of Phraizing things may be disjunctive, yet that does no way follow, that the matters included in them should be so disjunctive of each other, as to imply a thing not *con-natural*: For instance, If I should say by way of promise to a man, *Do me such a service, and I will give thee an hundred Shillings, or five pounds: Does, Or, imply another sum?* or *that such a Child is one thousand ninety and five Dayes, Or three Years old: Does Or suppose a Different Age?*

In short, [*Per Legem Terræ*] or by the Law of the Land, cannot be understood Exclusive of a Judgment by Peers, it being but a more ample and comprehensive way of phraizing the peoples right and priviledge of tryal by Juries.

If (Or) be considered Copulatively, He thinks it will fetch in the *Justices*, as *Co-Judges* with *Juries*; but that conclusion is wrong; for as such copulation disowns an exclusion of judgment by Peers, and makes it part of the Law of the Land; so let me tell him, that what is conceiv'd to be additional (as by

the Law of the Land) cannot ſo eaſily be underſtood of *Juſtices*, as of the whole legal form & method of tryal in the caſe mentioned with the whole rights and priviledges of Juries and Priſoners.

That this is not mine own ſence, but the Laws, if his ſo much honored Lord *Cook* be to be credited, let him turn to fol. 50. of the 2d part of his Inſtitutes, where he will find this Doctrine, *Tryals by the Law of the Land, are by due courſe and proceſs of the Law; and they are by Indictment and Preſentment of good and lawful Men: And what is this, but*, Per Juditium parum, *or Judgment by Iuries?* But of this more in the *Appendix*.

Next, *That as Iuries are Iudges of Law and Fact* (as hath been unhappily diſtinguiſht) mens intereſt, putting that aſſunder, that Reaſon and Law originally joyned together) I ſhall proceed to evidence.

1. The firſt Argument is drawn from the Record of their own Indictments.

The Indictment is found and given into the Court as *Billa Vera*, or a true Indictment, by the *Grand Inqueſt*, or Iury of twelve men, before the Court can take cognizance of the Cauſe; upon this its recommended to the Petty-Jury, to judge the whole matter, and to deliver in their Verdict or Opinion, whether A. B. *be guilty in Manner and Form.*

If then the Indictment comprehends both *Law* and *Fact*, and that the Jury is to give their Judgment in *Manner* and *Form*, and that *Manner* and *Form* takes in, and includes the whole *Law* and *Fact of the Indictment* (as they manifeſtly do) then, with great ſtrength and clearneſs we may infer, *That the Iury is Iudge of Law and Fact.*

2. My Second Argument is drawn from the nature of the Verdict given.

Judgment is the determination and reſult of Law, *therefore thoſe who are Authors of ſuch Determinations or Reſolutions muſt needs be Iudges of the Law.* How is it poſſible, that a Jury can pronounce *Legale Iuditium*, Legal Judgment, and yet not be

be Judges, whether the *Fact* proved be obnoxious to the Law, or not. *Judicium, quasi juris dictum*, or the Mouth of Law; which being the Juries, they pronounce Law as well as Fact: A Verdict is a Child compoſed of Law and Fact, and inſpirited with the Opinion of the Jury.

This is further evidenced from their own Proceedings at the *Old-Baily*, where they impriſoned the Jury for not bringing in their Verdict, ſo as to render our Meeting *Unlawful*, which they could never do, *and not be Judges of that Law the Meeting was ſuppoſed to have tranſgreſt.*

In ſhort, Since *Guilty*, and *Not Guilty*, are Verdicts; and that they cannot be given, but where a Fact is obnoxious, or not obnoxious to Law; and ſince none are to give that Verdict, but the *Jury*; it follows, that the Jury are only Judges, becauſe they only can criminate or clear. And where the power of determination is, there is the judgment of Law; but that is in the *Jury*.

Where there is no Law, there can be no Tranſgreſſion. Now ſuch Tranſgreſſion being ſuppoſed, in the Verdict of *Guilty*, it is moſt plain, that *Guilty* cannot be pronounced but with a reference to the Law tranſgreſt; and that reference cannot be made, but by ſuch as are Judges of the extent of the *Law*.

3. My third Argument ſhall be drawn from the Puniſhment of the Malefactors.

To Puniſh any as a Malefactor, it is requiſit he be proved ſuch; but it is impoſſible he ſhould be ſo, but with reſpect to ſome Law tranſgreſt: Nor can he be concluded ſuch a Tranſgreſſor, unleſs his Fact be judged obnoxious to the Law: And where this judgment is, *there reſts the judg-ſhip of Law and Fact*; for that he ſhould be legally puniſht, purſuant to a legal Judgment, and yet the Authors of this Legal Judgment, not to be Judges of the Breach of Law, is ſome of the profoundeſt

foundeſt Non-ſence in Nature: What is this but to render the Jury meer *Cyphers*, when they ſhall only tell the Court, that which the Witneſs ſhall have ſwear to their hand? But becauſe their Verdicts are *Guilty*, or *Not Guilty*, which determine the *Fact* meritorious of Puniſhment, or Acquittance; therefore have they the only power of Judgment.

4. My fourth Argument ſhall be drawn from a Maxim of their own, viz. *Ex facto jus oritur*. Therefore, ſays *S. S. The Jury are not only Judges.*

It is ſuch a way of drawing conſequences, as I have not been acquainted with; for nothing can be clearer then the contrary to this Concluſion.

If out of the Fact the Law ariſes, then thoſe who are Judges of Fact, cannot eſcape being Judges of Law alſo; for Fact gives it.

This Paſſage puts a *Ne plus ultra* to the pretence of difficulty, and the neceſſity of alwayes asking Queſtions of the Juſtices; ſince the nature of the Fact clearly proved, carries the legality, or contrary in the boſom, if not in the front of it; and therefore obvious to the plaineſt and moſt ruſtick capacity.

5. My next Argument ſhall be drawn from the *ill-conſequences of the oppoſite Opinion*, viz. *That men may be bought or ſold out of their Lives, Liberties and Eſtates.*

For if an enraged Bench, or otherways *intereſted* be the ſole *Judges* of Law, then let any man be indicted of the moſt lawful act imaginable, it being ſuch as he cannot deny, and which is prov'd by Evidences; the Jury muſt bring him in guilty, and ſo expoſe him to the ſentence of the Juſtices, by leaving the Judgment of the Law, to their prepoſſeſt breſts.

6. My laſt Argument will be this, that upon the opinion of our *Adverſaries*, there muſt be *two Evidence*; *one of the Fact*, which is the *Juries*; and *one of Law*, which is the *Juſtices*. But becauſe the Law knows no ſuch conceit, and that the ſingle Verdict

Verdict of twelve men, is, and muſt be legally binding; therefore are they *Judges both of Law and Fact.*

Object. Their main Objection is, That if the Juſtices be not Judges of Law, *How comes it to paſs that the Jury asks the ſence of the Law at their Mouthes?* according to that *Maxime.*

Ad queſtionem Iuris reſpondent Iudices, et ad queſtionem facti reſpondent Iuratores, as in page 2. of the Libel under Examination.

Anſw. This is ſo far from leſſening the force of our preceding Arguments, that from this *Objection* we will fetch matter enough, to make a ſubſequential one, and that of no ſmall import to the buſineſs controverted.

I grant a poſſibility of ſuch an ignorance in Iuries, that there may be a neceſſity to inform them of the Law, by the better skill of the *Juſtices*: But what then? therefore muſt they not be Iudges of *Law, ſo far as concerns the Fact?* nothing leſs; For though the *Juſtices* may tell them the Law (and its their place) yet that's no part of the *Verdict*, as ſo ſaid by the *Juſtices*; but as *underſtood, digeſted*, and *juditiouſly made the Iuries, by their own free-will and acceptance, upon their conviction of the truth of things reported by the Bench.* As a man may be educated in any Religion; but to make it his proper Religion, 'tis requiſite that he believe and embrace it *juditiouſly*, not *implicitly.*

Thus we frequently find the Houſe of Lords to ask the opinion of the Juſtices in Parliament; is the *Vote, Order, or Act, therefore the Judges, and not the Parliaments?*

The like in the *Kings Council*; Is the opinion of the *Kings Atturney*, or *Solicitor*, the *Iudgment, Reſolve, and Order of the Council*, becauſe he ſaid it, and not becauſe they made it theirs, *by ſubmitting to the reaſon, or legality of the thing debated and delivered?*

And in *London*, Are the *Orders* of the *Mayor Aldermen, and Common-Council, the Recorders, or City Council's, becauſe his, or their Opinion in point of Law was ask'd?* experience ſhews the contrary.

From

From all these Premisses, 'tis time we draw this one most evident Conclusion; That notwithstanding Juries of late are grown so out of fashion, and of power with some, that to shew any, is to incur the Threats and Menaces of the Court, to have their *Noses Slit*, their *Throats Cut*, their *Bodies Imprisoned, and drag'd at a Carts Tayle through the City, &c.* Yet that they are by the *antient Laws of* England, *and force of Reason, the only right and proper Judges, as well of Law as Fact.*

Part V.

The Tryal, as related by *S. S.* Examined; and his Notes thereon Animadverted.

THAT I may appear to all impartial Men, unworthy of thoſe *Reflections*, and hard *Names S. S.* is pleaſed to heap upon me, I ſhall conclude the Vindication of my *Innocency with his own Relation of my Tryal.*

And truly, when I weigh his *frank Confeſſions*, concerning Paſſages the moſt *notorious*; I ſhould be amazed at his Indiſcretion, did I not know how uſual it is with God to leave ſuch men under ſtrong infatuations: For, to give it a ſhort *Character*, its almoſt Verbatim, *The Second Edition of our own Tryal*; I mean that part which related to the Tranſactions of the *Court* and *Priſoners*.

And whether he has vindicated them from thoſe Expreſſions, which to all ſober men are moſt deteſtable, or backt the Accuſation of the *Author* of our *Tryal*, by his publique acknowledgement of them; let any but *S. S.* and his Juncto judge. How then the Author of that Tryal could juſtly be condemned, for his Relation as ſcurrilous, and malicious, which is ſo exactly copied after by *S. S.* will be hard for any man of Sence to think, unleſs he brings his own *Account* under the ſame imputation.

But he tell us, *That he thought good to ſet down the Names of thoſe Juſtices who were preſent* (Honoris Cauſa) *with all their Additions and Titles; that ſo the World may know that the City of* London *wants not worthy Patriots, who dare call to an account theſe vile railing* Rabſhekahs *of this Age. And the rather becauſe the Libeller hath in a diſgraceful way prefixt their names without any Additions to his* Narative, *thereby intending to make them odious to the People.*

The Persons Nam'd are,

Sr. Sam. Starling, *Knight, then Lord Mayor.*
Sr. Jo. Robinson, *Kt. and Bar.*
Sr. Tho. Bludworth, *Kt. and Alder.*
Sr. Wil. Peak, *Kt. and Alder.*
Sr. Jo. Howell, *Kt. and Recorder.*
Sr. Rich. Ford, *Kt. and Alder.*
Sr. Jo. Shelden, *Kt. and Alder.*
Sr. Jo. Smith, } *Sheriffs.*
Sr. Jam. Edwards, }

To which I must needs say, I knew a time, when the City of *London* had a better Advocate. What man in his Wits would not despise the Folly and Meanness of this wretched *Pedagoge*? The weakness of whose Discourse eminently shews the *ricketted constitution of the Author.*

First, He has but little of *Religion*, that dares to lie in the common Field of every mans knowledge; since he denies that ever the *Author* of the *Tryal* gave the aforementioned *Persons*, any *Additions*, when (*Alder.*) is to every one of them, that really is so.

Next, I cannot chose but observe his vanity, as if the omitting of the Title (*Sr.*) had been a robbing them of their Honour (I am sure they have very little that have no more) But if to give them their own *Names*, be matter of Disgrace, it is worth our while to consider, how disgraceful those Persons were in this *Libellers* account, before they had that Title given them; though I am apt to think, they were not less reputed before, then since; and because they write not themselves so much as that Author Printed them, and that none can suppose them to omit those Titles, disgracefully to themselves; it is both ridiculous and false to charge such a Design upon the Author. But whilst he calls me, and my Fellow-Prisoner, the vile and railing *Rabshekahs* of this *Age*, and ventures to load us with Slander and Reproach; methinks he proves himself to be of that ill-bred *Tribe*, in accusing us for such.

But

But to his *Nota*'s upon the Tryal.

Nota 1. pag. 13. } THE *Prisoners in stubborn manner refusing to take their Hats, they were put on again by the same Person.*

Answer, This is a Lye, to be confirmed by hundreds; we never did, nor never shall refuse to take our Hats, and put them on too, which we had no time to do; for having been taken off by the Keepers (I suppose in Kindness) seeing the *Court* displeas'd, or rather some in it) the Mayor (I think it was) cryed out, *Sirrah, Who bid you pull off their Hats? Put on their Hats again.* At which the same Keepers put them on, of which the *Author* of our Tryal has been more particular.

Nota 2. pag. 13. } *The Court observing that the Prisoners standing on the Leads behind the Bar, with their Hats on, facing the Court all that day, as it were daring the Court to a Tryal; so that the Court, and all the Spectators look upon them, as offering a great Affront to the Honour of his Majesties Court; the Justices were resolved to chastize them for the same.*

Answ. His second Nota, is his second Lye. For first we were not upon the Leads any time of the day, as many can attest, but in the Bale-dock, or within the Bar, attending upon the Tryals of *Thieves* and *Murderers*, to the displeasure of the Spectators; but not on our part. Besides, that this was done upon meer design, is evident, because neither were the Goaled, nor we, so hardly treated the first day of our appearance, when there was equal ground for it.

Nota 3. pag. 14. } *This is a great Falshood; for their Hats were put on, behind the Bar, before they came into Court.*

Answ. But it is a great Truth that we were not behind the Bar at all, until towards the Evening, when cast into their stinking Hole, and there indeed they stay'd us behind the Bar three Hours. And for mine own part, I do declare, my *Hat* was clapt

upon my head by the Keepers hand, within a very little ſpace of the place in which we uſually ſtood during the whole time of our Tryal.

Nota 4. pag. 14. *This is inſignificant Canting.*

Anſw. What? Wil. Mead ſaying, *Fear God, and dread his Power.* O ſtupendious Impiety! That ever any profeſt *Proteſtant* ſhould have ſo much out-ſinned all *Sence of God, and his Dreadful Power*, as to repute that Seaſonable Exhortation, *Inſignificant Canting*: But this makes us the leſs to wonder at our Sufferings from ſuch.

Nota 5. pag. 14. *It was by Sr.* John Robinſon *obſerved, that* Buſhel, *the Tender Conſcienced Jury-man, made an offer to kiſs the Book, but did not; wherefore he was called upon by the Court to be Sworn again.*

Anſ. How much that *quick-ſighted Lievtenant*, had more *Jealouſie and Prejudice* then others in his Eye, the many Spectators preſent can beſt decide; or mine own ſhare, I did not obſerve him to gratifie the common Cuſtom of the Court, more in the latter then former tender of the *Oath* unto him: But with what prepenſt Unkindneſs and diſdainful Ketch, he was treated, was obvious to thoſe about him.

I perceive it is as *Criminal to be Tender-conſcienced*, as it is eſteemed Canting, *to bid men Fear God*: For as that Religious Advice was made matter of *Mockage*, ſo this good quality is not leſs rendred Suſpitious. *But how Tender-conſcienced ſuch perſons are, that make ſo ill uſe of ſuch Expreſſions, is beſt manifeſt in their ſevere Proſecutions of men that really are ſo.*

Nota 6. pag. 17. *As clear Evidence as ever was offered to any Jury, Two Witneſſes prove the Fact againſt both the Priſoners, and the Priſoners confeſs the whole matter in effect, and juſtifie themſelves, and declare they will do the like again, whatever Laws the King and*

and Parliament can provide againſt the ſame. O confident Impudency! Surely both King and Parliament will take notice of Penn's *Arrogancy.*

Anſw. It will be wholly needleſs to repeat the Evidence, twice done already; but to his *Nota* I anſwer thus, 1ſt That the Witneſſes did not Swear, that we were at an *Unlawful Aſſembly*, and that they were there, the *Jury never ſcrupled.* That part of the Indictment, which was ſo *Indigeſtable* with the Jury, was the *Illegallity of the Aſſembly*; and ſince the Court was not content with their Verdict upon a meer *Fact*, it argues, that they would have made them Judges of Law, by determining the *Legallity*, or *Illegallity* of the Meeting, not ſworn to by the Witneſſes. 2d The *Mayor* and *Recorder* differed in the Point; The Mayor was for ſacrificing Me only; The Recorder thought it Unreaſonable that I ſhould go without a *Mate*, and juſtifies his Apprehenſion, from the word *Conſpiracy*; but where the Conſpiracy was, we have leave to think.

The *Bench* being thus divided in the Point, 'twas ill obſerved by *S. S.* ſince the *Perſon* he moſt vindicates lies moſt liable to reflection. 3d Though we confeſs to have been there, yet we deny to have been at an *Unlawful Aſſembly*; which being the purpoſe of the Indictment, it was unſeaſonably obſerved. But 4ly We acknowledge before *God*, *Angels*, and *Men*, that MEET we muſt, and encourage others to do the like; yet ſo, *as never to Contrive, or Abet the leaſt Diſturbance to the Civil Peace*: And if from hence he ſtiles Me *Impudent*, and *Arrogant*, I am contented to bear his Scurvy Epithites till he is better learnt.

One Paſſage I cannot well omit, becauſe it gives the man the Lye that ſpoke it. When *W. Mead* askt *R. Brown*, *What he did there? Was he a Juſtice or no?* If not, deſired him to come down: *R. Brown* is ſaid to anſwer him, by the relation of *S. S. Sir, I am a Juſtice, and you are an impudent Fellow.*

Which Anſwer carries as much of Falſhood, as Incivility and Folly. For, Firſt, he was no Juſtice in that place, the ground of the Queſtion. And next, He might have ſpared the inſolency of ſtiling Him an *Impudent Fellow*, who is, in external Reſpects,

ſpects, a Perſon no ways inferior to himſelf. And laſtly, He ſhews not a little Folly, or *S. S.* for him, who ventures to call him an Impudent Fellow, in the end of the Sentence, that he ſtiled (*Sir*) in the beginning (a Title of ſo much Honour with *S. S.* pag. 10.) But if the Author of the Tryal gave not *Titles* and *Additions*, this Man hath not been wanting in either.

Nota 7. pag. 17. *How Mr.* Penn *plays upon the word Common.*

Anſw. I play'd upon nothing, but for working in defence of the *Common Law*. *Some were ſo prodigal, as to play away my Liberty.*

But S. S. will have it, that the *Mayor had Law enough*, to define the Common one; but at the rate he expreſſes it, he might have let it alone, unleſs his *Expoſition* had turned more to his account: For, if the Common Law be Common Reaſon, (as he ſays the Mayor defin'd it) and that being a man, I have common reaſon (which none of them had ſo much extrordinary Reaſon, as to evince the contrary) methinks they might have forborn ſo great an Inſtance of no Reaſon, as their commanding me to the Bale-dock, for demanding Common Reaſon.

I am well aſſured, that common Reaſon criminates no Aſſembly, peaceably met to Worſhip God, without the leaſt appearance of Weapons Offenſive or Defenſive.

Nota 8. pag. 19. This Nota referring to the Jury's being Judge of Law and Fact (as unhappily diſtinguiſht) I omit to conſider it further, it being fully unſwered already in the fourth Part of this Diſcourſe.

Nota 9. pag. 21. Penn *made ſuch an uncivil Noiſe, that the Court could not give the Jury the Charge, he was therefore put into the Bale-dock, which ſtands even with the Bar; and the Priſoners might hear the Charge there, as well as a Priſoner might hear at the Barr; this therefore was a cauſeleſs Exclamation.*

Anſw.

Answ. If my noise was *uncivil*, it was because it was *Legal*; and I expect not a better Character from such, as so proclaim me a *broacher* of new Heresies, *because I honestly demanded the free course of the Fundamental Laws of* England. The plain truth was this; that because I endeavoured to inform the Jury of my Case, and to take off the asperity of some mens passions, they turn'd me, and my Companion, into the *Bale-dock*, which though even with the Bar, yet besides the main Court, and so deeply impaled, that we could not see the Court, nor hear the Charge; but upon information, that the *Recorder* was charging the *Jury*, *I stept up, and my Fellow-Prisoner after me*, and exclaimed against the irregularity of such proceedings. And for this plain Reproof, and but necessary demand of the *English* Right, *of Prisoners being present at the giving of the Charge*, commanded us into the *Hole*, a place so noisom and stinking, that the *Mayor himself would have thought it an unfit Sty for his Swine.*

Nota 10. page 23. *Six or seven of the Jury men did agree to the Mayors question; upon which* Bushel, Hammond, *and two others opposed themselves, They allowed of no such word, as an unlawfull Assembly in their Verdict.*

Answ. Its not the least unhappiness this Libeller is attended with, to be frequent in *self-contradiction*; for in the Interogatories immediately precedent, the *Mayor* speaks thus to the *Foreman* of the *Jury*.

May. *What, was it not an unlawfull Assembly?*

Fore-m. *My Lord, This is all I had in Commission.*

And yet this man was one of the seven S. S. would have a *Dissenter*.

I hope, since the *Fore-man* had no more in Commission, S. S. is to blame for so impudent an Assertion, as that seven at that time dissented from the rest.

Nata 11. page 25. *A peaceable innocent people indeed; that when the King had seized the Meeting-House into his hands (as by Law he might) they would come and break open the doors; they violently*

violently over-power'd the Conſtable; and his Watchmen, and 'tis prov'd, that the people, at this time kick and ſpurn'd the Conſtable, and his watch-men; he endeavouring to diſſipate this unlawfull Aſſembly, as is ſworn by Read *the Conſtable.*

Anſw. This does but ſtill aggravate: How much S. S. is an *Enemy to all truth,* What if the Door was broken open? had not the *Quakers* (in Juſtice and Equity) right to the Place? However, it is a moſt falſe Conſequence, that they ſpurn'd the Conſtable, becauſe he was ſpurn'd at their Meeting, ſince many are accuſtom'd to crow'd after the Conſtables and Souldiers, who are no *Quakers,* but come to ſee their uſage.

Nor does *Read ſwear it was the* Quakers, *but ſome people preſent*: And ſome of the Jury fully anſwered that part of the Evidence, in this diſcreet Obſervation, That it was impoſſible any man could paſs through ſo great a Throng, and not be puſht, or his Feet trod upon.

Beſides, It does not appear that the Houſe was ſeized purſuant to any *Tryal, Conviction, or Judgment by the Laws of* England, and that ſuch ſeizure is not according to the ſence of them, appears by the Statute of the 17th of *Charles* the firſt, Cap. 10. where it is expreſly ſaid, *That neither his Majeſty, nor his Council, have, or ought to have any Juriſdiction, Power or Authority by Engliſh Bill, Petition, Articles, Libel, or any other arbitrary way whatſoever, to examine or draw into queſtion, determine or diſpoſe of the Lands, Tenements, Hereditaments, Goods and Chattels of any Subjects of this Kingdom; but that the ſame ought to be tryed and determined, in the Courts of Juſtice, and by the ordinary Courſe of Law.*

Nota 12. page 26. } *The* Jury *in Mr* Pen's *opinion, and* Buſhels *both, are perjured men, for that at laſt they brought in a Verdict contradictory to this.*

Anſw. Thoſe that have read the *Tryal* will apprehend his meaning; for upon their bringing me in, not guilty, of an unlawfull Meeting; but guilty onely of ſpeaking in the place called *Grace-Church-Street* (and the Court menacing them

them much, and saying, They would have a Verdict, meaning Guilty.)

I said, the consent of Twelve men, is a Verdict in Law; and if they bring in another Verdict, contrary to this, they are Perjured Men. But what then? Therefore when they brought me in Not Guilty, had they perjudred themselves? Nothing less. I am ashamed to read so ridiculous a Non Sequitur in Print.

If I understand what Contraries mean, the opposit to *Not Guilty*, must be *Guilty*: But that they gave no such Verdict absolutely, is manifest from the Courts not receiving it; for above all things they waited and prest hard for it. *Therefore to be guilty of Speaking in* Grace-Church-Street, *and not at an Unlawful Assembly, is a not being guilty in Law*; and consequently their Verdict no Contradiction.

Nota 13. pag. 26. *At this time some of the Jury complained to the Court, that the four men, viz.* Bushel, Hammond, *and the other two, would starve them, and that they had brought Strong-water-Bottles in their Pockets designedly.*

Answ. 'Tis not the *Quakers Light*, but *S. S.* his *Darkness* that is the *Father* of *Lyes*; and Miserable will be the End of such, as make them their Refuge.

For, First, There was no such Complaint made.

Secondly, Nor was there any just Occasion for one.

And Lastly, Methinks this Libeller might remember that if he thought me condemnable, for not giving the *Justices* more *Titles* and *Additions* then their own Names, and that of Aldermen; he upon greater cause deserves a Check, that cannot afford, *those able and honest Citizens, more then half their Names*, and scarcely that too.

Nota 14. pag. 26. *The Court having regard to the Health of the Jury, adjourned till seven next morning, although it was Sunday, which otherwise they would not have done.*

Answ. It was, and is a real Question, Whether the health of

the Jury, or condemnation of the Prisoners, was most in their eye; but no matter which: I shall briefly insist upon their adjournment to that Day.

I suppose it is not unknown to those that know Law, that *Dies Dominicus non est in lege dies*, or, *That the Lords Day, is not a Day in Law*: That is, There ought not to be Assizes, Sessions, or Termes held on that Day; because it is a time the Law takes no cognizance of, nor has any relation to; thus Cook in his first Instit. Sect. 201. fol. 135. where he excludes that day from the number of those he calls *Dies Juridici*, or *Dayes in Law*.

The consequence of which must needs be this, That their whole procedure at that Session, becomes question'd, and void in Law. But to justifie those Transactions, they got a Commission after Sessions, anti-dated, from the time of that Adjournment.

I shall not much reflect upon the Passage, it carries, its own Comment with it: But methinks more Skill in Law, or Moderation to the Prisoners and Jury, might have prevented such an *extrajudicial* procedure.

Nota 15. pag. 28. } *This is the fourth time the Jury brought in this insignificant Verdict, viz. That they find* Penn *guilty of speaking in* Grace-Church-Street, *and how this answers the Question, viz.*

What say you? Is W. Penn *guilty of the matter whereof he stands indicted, in Manner and Form, or not guilty? Let the World judge whether that be a Verdict or not: They thus often abusing the Court, made the displeasure of the Court against them, and surely not without cause.*

Answ. This *Nota* is upon the Juries continuance of their Verdict, of only bringing me *in Guilty of speaking in* Grace-Church-Street, delivered First-day Morning: But how reasonable will be the matter of our inquiery and answer.

If S. S. will have the *Jury only Judge of Fact* (which the *Recorder* expresly affirmed on the *Bench*, using words to this purpose, *We will have you to know, that you shall not be Judges of what the Law says, &c.*

Why

Why are they here condemned for undertaking no farther? They brought in the Fact, but that the Court thought incomprehensive of the Indictment, *which being complicated of Law and Fact*, were to answer the Question in Manner and Form. And if this doth not inthrone them Judges, how far the Fact reaches the Law, and whether by Law A. B. is guilty or not guilty, I must confess my self mistaken, and I am sure to have company enough of all men of sence and Sobriety.

So that what the Jury is deny'd elsewhere, is given here, and S.S. equally angry, *for their being, and not being sole Judges.*

Nota 16. pag. 28. } William Penn *made such a Noise in the Court, that the Court could not hear the Jury, nor the Jury the Court.*

Answ. If to speak to be heard, be *Noise*. I was guilty of his Observation; but I need the less to vindicate my self, who have so many living Witnesses of Credit, to do it for me: If they would not hear me, they ought not to have condemned me; but if they could condemn me, they in Conscience ought not to overrule, but hear me.

But would any know the Noise I made, read my words and 'twill be found S.S. has only Nois'd a Fiction. Upon their menacing of the Jury, I thus spoke.

It is intollerable that my Jury should be thus menaced? Is this according to the Fundamental Laws? (thus far S. S.) *Are not they my proper Judges by the Great Charter of* England? *What hope is there of ever having Justice done, when Juries are cheeks, and their Verdicts rejected? I am concerned to speak, and grieved to see such arbitrary Proceedings. Did not the Lieutenant of the Tower reuder One of them worse then a Fellon? and do you not plainly seem to condemn such for factious Fellows, who answer not your Ends? Unhappy are those Juries, who are threatned to be fined, and starved, and ruined, if they give not in Verdicts contrary to their Consciences.*

This was the Noise charged upon me, and for this Fetters com-

 manded

manded to be brought by the Mayor; how justly, let the ingenious Reader judge.

Nota 17 pag. 29. } *Upon this Mr.* Penn *was silent and quiet, though nothing was done to him.*

Answ. I perceive the man will rather play at small Game (as the Proverb is) then sit out. What? Would he suggest my fear to the World, after his own relation has given such large testimony of my *Boldness, in so much as to dare the Court to a Tryal*, pag. 13? Or is he angry that I held my Tongue (as he says). *And yet the Mayor and Recorder so angry, that I spoke*, as that I must be *Staked with Iron Fetters to the Ground*; an Unkindness I forgive, but which will render their Carriage *Infamous with all Sober and Moderate Men.* But three things I observe, and conclude this ridiculous Nota.

1st That my retort upon the Mayors Menace was omitted by S. S. which was this.

Do your Pleasure, I matter not your Fetters. Which was very far from being over-aw'd by their Displeasure, as the remainder of my Tryal manifested (which I speak to Gods Glory, whose holy Power carried my mind over the heads of all that there arraign'd or judg'd me.)

Secondly, There was no occasion for much Discourse, as by the Tryal appears, the Court being ready to break up, and then to whom should I speak.

Thirdly, I would that S. S. and his Brethren should know, That I only *Worship, Fear*, and *Bow, before the Glorious Everlasting God of Heaven and Earth, and therefore Dread not Mortal Man, whose Breath is in his Nostrils, and has power only to hurt the Body, and that no further then is permitted him of God; whose holy Will I am resigned to answer, in Doing and Suffering, as he shall enable me. And whatever my Portion be from this Generation, whether Good-report or Bad-report, Acceptance or Suffering, I matter not; but bless his Providence, and shall accept it all as an Earnest of his Eternal Love, and rest in Glory.*

Nota

Nota 18. pag. 29. *These men were very like to be starved, when they had Roast-Beef, Capons, Wine, and Strong-Drink, sent them (as is ready to be proved) during the time they were considering of their Verdict.*

Answ. This is but a vain Surmize, and how positively so ever asserted, the Proof remains behind, *which had there been any*, it is not to be thought this *Libeller* would have omitted it; besides, the Officers of the Court were sworn to keep them from all sort of Refreshmen. But had it been so, I see no evil in the thing, unless it be an Evil to prevent men from starving, especially since they were not there encloyster'd for not agreeing in their Verdict, but for agreeing in a Verdict some Persons humors would not allow for one, as the Juries frequent *Cries, We are Agreed, We are Agreed, &c.* do plentifully evidence. This ends his Nota's, and I shall now take leave to remark on him.

Nota 1. My first Observation will be this, That in his relation of my Tryal, though in many things he does me Right, yet in some places, he does both me and the Law wrong; For its familiar with him to slip over those Expressions of mine, which tell the World, how vehemently I called for Right; *and willing I was to be tried by the Fundamental Laws of* England, whilst represented as a Seditious Person, which my Soul abhors, thus pag. 17, 28, 31.

But more especially that Clause, *I can never urge the Fundamental Laws of* England, *but you cry, Take him away, take him away: But tis no Wonder, since the* Spanish *Inquisition hath so great a place in the Recorders heart.* To which I might add his threatning to Cart the Jury about the City, &c. pag. 19. The intent of which unfair dealing must needs arise from an apprehension of the *disadvantage* and *guilt* that would be attributed to them; whilst nothing more manifests both, then the partiallity of these parts of the *Narrative.*

Nota 2. My second Remark will be upon the folly of this *Boaster*, which shews it self so great, that it is become al-

already the ſcorn and raillery of the Town: For inſteed of caſting a friendly Covert over the Nakedneſs of his *Patrons*, he brings them out ſtript in Print, and allows, nay vindicates, thoſe very *Indiſcretions*, which are irreconcileable with the ſenſe of every ſober man, and that hitherto were ſcarely credited by their Enemies in the relation of our Tryal, but now believed by their beſt Friend, becauſe divulged with a ſeeming Priviledge in the Account given by S. S. This appears.

First, pag. 1, 22. } In *Jo. Robinſon's* Expreſſion to *Edw. Buſhel* a Jury-man, *That he deſerved to be indicted more then any man, that had been brought to the Bar that day.*

2dly pag. 22. } In the *Recorders* Saying to that Perſon, *You manifeſtly ſhew your ſelf an Abettor of Faction.*

3dly pag. 3, 27. } In the *Recorders* Menace, *Ile have a poſitive verdict, or you ſhall ſtarve for it.*

4ly pag. 28. } The ſame perſon to *Edw. Buſhel*, *You are a factious Fellow, Ile ſet a Mark upon you; whilſt I have to do in the City, Ile have an eye on you.*

5ly pag. 29. } Again, *You will find the next Seſſions of Parliament, There will be a Law made, that thoſe that will not Conform to the Law, ſhall not have the Protection of the Law.*

6ly pag. 29. } The very ſame perſon thus again, *Bring another verdict, or you ſhall ſtarve.*

7ly pag. 29. } And as that which is fitteſt to bring up the rear of all his Threats, becauſe the moſt *Malignant*, I ſhall inſert that notorious Paſſage of the *Inquiſition*, as by S. S.

Till now I never underſtood the reaſon of the Policy and Prudence of the Spaniards, *in ſuffering the Inquiſition among them, and certainly it will never be well with us, till ſomething like the Spaniſh-Inquiſition be in* England.

Of

Of the Mayor, he gives us this Account.

8ly pag. 22. The *Mayor* to *Ed. Bushel* thus, *You are an impudent Fellow, I will put a mark upon you.*

9ly pag. 24. To the Jury, *What will you be lead by such a silly Fellow as* Bushel, *a canting Fellow.*

10ly pag. 37. To *Edw. Bushel* again, *You are a factious Fellow, and a course ought to be taken with you.*

11ly pag. 27. *Edward Bushel* to *T. B. I have done according to my Conscience.*

Mayor, *That Conscience of yours would cut my Throat.*

E. B. *No my Lord it never shall.*

Mayor, *But rather then you shall cut my Throat, I will in defence of my self, cut yours first.*

This last Expression horribly belyes the Mayor, and wrongs his words; for many sufficient Witnesses, they say, will deposite, that he fairly said, *But I will cut yours, as soon as I can.*

12ly pag. 28. And speaking to the Jury, in reference to *E. Bushel*, saith he, *Were I of the Jury, rather then he should starve me, I would slit his Nose for him.*

It was fairly done of *S. S.* and the whole City and Kingdom are great Debters, to his franck Discovery, and plain Acknowledgements.

We may now easily understand the meaning of the word MARK, by the Paraphase of *Slitting of Noses*; for that Expression seems to be the Key that opens the *Mystery* of the former: Of how ill consequence that Threat has proved, the late tragical Assassinates, in several places shew. I will not say, they may be imputed, to so ill a presedent as the *Mayors* Menace

to

to *Edw. Bushel*, from his Tribunal Seat, in all his Court Formalities; *But certainly they must be as deer a kin, that offer such barbarous Affronts to Parliaments and Juries, as threatning and doing are.*

It is hoped, there will be no further need of such *Remarks*, and that the *Act* expected, *will prove as well a Protection to the* Noses *of Juries, as Members of the high Court of Parliament.*

By this time the *Courteous Reader* cannot but see, with how little of *Truth and Reputation* he triumphs over us, and vindicates his Friends; since more could scarcely have been said for us, and against them, then the *impudent* Repetition of things so *Scurrilous, Injuditial*, and *Ill-timed*: And indeed, the cold reception it finds, with all that read it, might have saved me this labour; but that I was informed, how much a *Reply* was expected from me.

And that I am not ignorant, how natural it is, for men of this Mans *form of understanding*, to conceit their *Pamphlet unanswerable*, because not *answered*, though the only reason of it, may be its indesert of so much *Pains.*

To conclude, However busie some sort of men may be (and I hear not a little of their *Projects*, to mis-represent me to the *King*, and *Persons of eminent Employ*, that with less hazard to themselves, they may sacrifice me to their injust hate.

I do declare my Judgment, and that of my abused Friends, in things relating to Civil Government, and by it we would be measured, and in the Strength of God resolve to stand.

First, *That we acknowledge Government to be necessary*, because of Transgressors.

Secondly, That this Government should consist of wholesom Laws, to supress Vice and Immorral Practices, as *Oaths, Whoredoms, Murders, Lyes, Thefts, Extortion, Treachery, Prophaneness, Defamation*, and the like Ungodly and Immodest Actions; *and in the encouragement of Men contrarily qualified*: These are Fundamentals in Law and Gospel. In short, We heartily own the *English* Government upon its ancient *Civil Bassis.*

Thirdly, That there be many other *temporary Laws* suited to State Emergency, in civil matters, as in Trade, &c. to which we also account our selves oblieg'd.

Fourth-

Fourthly, *That we there only dissent, where Conscience in point of Faith and Worship towards God is concerned.*

Fifthly, *That we utterly renounce, as an horrible Impiety, the Promotion of our Interest or Religion, by the Blood of our Opposers.*

Sixthly, *That if we are deny'd our Freedom, in the Exercise of our Consciences to God (though otherwise peaceable and industrious) as it has been so will it still be our constant practice* (However it appears intollerable to Flesh and Blood, that we should always be the *Anvil*, on which the *Hammer* of every *Power* beats the heavy stroaks of its unmerited Displeasure) *to sustain all in Peace and Patience, because Vengeance belongs to God, who certainly will repay it.*

If therefore any that think themselves concerned in this *Treatise*, shall offer to suggest the contrary to these *Assertions* and *Confessions*, I do hereby declare them Slanderers of the greatest Innocency upon Earth, and give them this publique Challenge once for all, that as we will never baulk a fair debate, where every point in controversie may receive a full discovery and decission; so do we charge such Adversaries for the future, if they would have the reputation of true men, to bring their Names and Scruples into open view, that so the Apprehensions of us may be justified, or our Innocency relieved from the heavy pressure of their injust Slanders.

Newgate, the 12th Moneth, 1670. } W. Penn.

An APPENDIX; Wherein the Fourth Section of *S. S.* his Pamphlet, (intituled, The Fining of that Jury, that gave two Contrary Verdicts Juſtified, to prevent a Failer of Juſtice in *London*) Examined.

READER,

UT obſtruatur os iniqua loquentium. Have I undertaken to anſwer this ſcurrilous Libeller: And in clearing theſe Jurors from his ſo. foul Aſpertion, ſhall manifeſt to the World, not only the horrid falſeneſs of his Charge againſt them; but lay open the Unjuſtneſs and Arbitrarineſs of thoſe Proceedings, which this Author ſeems to have the Confidence now in Print to vindicate.

The Wiſe-man aſſerts, That he that uttereth a Slander is a Fool, Prov. 10. 8. *And the Pſalmiſt commands*, That the Lying Lips be put to ſilence, *Pſa.* 31. 18.

And to evidence his folly, let Truth (the Mother of Juſtice) ariſe, and plead their Innocency, againſt one who endeavours to abuſe and traduce, as well the Liberties of all the Free-men of England, *as theſe reſpective Jurors, whoſe Actions have rendred them worthy Citizens of* London, *and faithful Friends to their Country.*

THE Cauſe for which the Jurors were fined and impriſoned (by the Bench at the Old Baily) *S. S.* boldly aſſerts was for [*their giving in two Contrary Verdicts.*

The Falſhood of which Aſſertion may not only be manifeſted by many Huudreds of Citizens, who were Eye and Ear Witneſſes of their *Arbitrary and Illegal Procedure* (as well towards the other Pri-

Priſoners there, as theſe Jurors) but alſo teſtified by many of this Libellers own approved Authorities.

1. Let us look back into the third Sect of his Pamphlet, where he has given frequent *Teſts* againſt the verity of his fourth Sect's *Aſſertion*.

The Jury having had no Evidence of any unlawful Act done by W. P. could not bring him in Guilty *Modo & Forma &c.* yet four times brought in ſo much as was by Witneſſes *proved* againſt him, viz. *That* Wil. Penn *was guilty of ſpeaking in Grace-Church Street*, as pag. 23, 24, 27, 28. Which (being all the *Fact proved*, yet far ſhort of *what* was laid againſt him in the Indictment) the *Recorder* declared was no Verdict in Law, redoubling the Expreſſion or Subſtance thereof, no leſs then four or five times, as pag. 23, 24, 27, 28, 29. And in page 30. the Jurors brought in W. P. *Not Guilty in Manner and Form as he ſtood Indicted.* Other Verdict I never heard that the Jurors brought in, neither doth *S. S.* in his Relation of the Tryal pretend it.

And why he ſhould thus Reproach the Jurors, Groundleſly, and ſo palpably give the *Lye* to himſelf, Let the *Judicious judge.*

2. Let us examine the *Return of the Cauſe*, of the Jurors Impriſonment, which now lies before the *Juſtices* of *Common-Pleas* at *Weſtminſter*. (Wherein S. S. *Mayor*, J. H. *Recorder, and their Council*, with long and tedious conſideration had accumilated ſo much *Formality* and needleſs *Circumſtances*, as ſwelled up the bulk to at leaſt Twelve Sheets of Paper) The matter or cauſe of their Impriſonment therein is only this, *viz.* 'De eo quod ipſi 'pred. Jur. modo hic eoſdem *Wil. Penn* & *Wil. Mead* de pred. 'tranſgr. contemt. aſſemblac. & tumult. contra legem hujus Reg-'ni *Angliæ*, et contra Plenam & manifeſtam Evidentiam, et 'contra Directionem Curiæ in materia legis hic de & ſuper pre-'miſſis eiſdem Jur. verſus prefact. W. P. & W. M. in Cur. hic 'aperte dat. & declarat. de præmiſſis eis impoit. in Indict. pred. 'acquietaverunt in contemt. dicti Dom. Regis nunc legumq;

ſuorum &c. The ſubſtance of which is, *That the aforeſaid Jurors did acquit the ſaid* William Penn *and* William Mead *from the Treſpaſs, Contempt, and unlawful Aſſembly, and tumult againſt the Law of this Kingdom of England, and againſt full and manifeſt Evidence, and againſt the Direction of the Court in matters of Law openly given and declared in Court againſt the ſaid* W. P. *and* W. M. *in contempt of the Lord the King, and his Laws &c.*

By which it's plainly manifeſt and evident that theſe Jurors were never guilty of giving *two contrary Verdicts*, or fined and impriſoned by the Bench for any ſuch *Fact*, as S. S. hath falſly and ſcandalouſly ſuggeſted.

And truly if *S S.* has been an Eye and Ear Witneſs of all that paſſed in this affair (as he affirms pa. 10) we may without breach of Charity, charge him with having a very *treacherous Memory*, which is an ill Companion for a *Lyar*.

But next we come to enter upon the matter promiſed, and to examine whether or no he has juſtified the fining of that Jury, by reaſon Law and Authority or any of them in order to which let us recite his words (he ſaith.)

Page 31. In regard that this is a Caſe, that very much concerns the King and Kingdom, and is now under the Conſideration of all the Judges, I ſhall only make four Remarks upon this Caſe, and leave the Determination of the ſame to the honourable Sages of our Law.

Anſwer, *Surely our Author had but a ſmall ſtock of courage, that it ſhould fail him in writing half a dozen Lines. What?* (in uno flatu) *to juſtifie the fining of a Jury, and to leave it again to the Determinations of the* Sages *of the Law.*

He might have left it at firſt to their Determination, and have ſpared his pains, of appearing in Print, and yet have been thought never the unwiſer Man for his ſilence.

S. S. His firſt REMARK.

As Nature (*ſays he*) abhors a Vacuum in the Univerſe, ſo it is the honour of our Law, that will not ſuffer a Failer of Juſtice, accor-

according to that Maxime, *Ne curiâ regis deficeret in Juſtitia exhibenda.* Therefore it is that although our Law appoints all Tryals to be by Juries, yet in ſix Caſes cited by my Lord *Cook*, 1. p. Inſt. ſect 102. fol. 74. the Tryal is by Certificate, as in caſe a perſon be in *Scotland*, in Priſon, and at *Burdeaux*, &c.

Anſw. Our Author who quotes *Cook*, might alſo have remembred this Maxime uſed by him, 4 Inſt. 308. *Ubi non eſt lex ibi non eſt Tranſgreſſio*, Where there is no Law there is no Tranſgreſſion: As for the matter of Tryals by Certificate, it is as Forreign to the matters in debate as *Burdeaux* or *Scotland* is diſtant from *Weſtminſter*-Hall. Neither does S. S. in any wiſe, by his Diſcourſe, apply it to that purpoſe, but barely proceeds.

In like manner Petty-Jurors, that have given their Verdict contrary to their Evidence, have been fined by the Juſtices, in Caſes where the Law hath provided no other Puniſhment, as by Attaint &c.

Anſw. Firſt, Obſerve the ſtrangeneſs of *S.S.* his conſequence. Becauſe the Law provides, that *Forreign matters acted (in partibus, tranſmarinis)* ſhall be evidenced or tryed by *Certificate* from thoſe parts: Therefore *Facts done or acted at home*, in publique Courts of Juſtice, ſhall not be determined in ordinary Courts of Law *(per legale judicium parium)* but by the arbitrary judgment of the Bench or Court.

Secondly, Obſerve how various this latter matter is to S. S. his Text, viz *Juries Fined for giving two Contrary Verdicts Juſtified*; changed into *Juries Fined for giving in a Verdict Contrary to Evidence.* And ſince the latter is the Text to his ſubſequent Diſcourſe, let us try and examine his Doctrine.

Our Author to prove, That Juſtices have fined Jurors, for bringing in Verdicts contrary to Evidence, gives us his Authorities thus.

' Vide *Whartons* Caſe, *Yelverton* fol. 23. *Noy* reports the ſame ' fol. 48. And Judge *Popham* ſaid, there were divers Preſedents ' to that pupoſe, and cites divers, one by Juſtices in *Eire*.

' *Wats.*

'*Watts* verſ. *Braines*, in an Appeal to *B. R.* *Crook* l. 3. 779. 'vide *Leonard* l. 2. 102. pl. 175. and l. 3. 147. pl. 196. *Southwels* 'Caſe in the Exchequor. *Moor* 730. *Lemons* Caſe in the Court of Wards. *Cook* l. 12. 23. *Prices* Caſe in the Star-Chamber.

Anſw. That theſe Caſes are material to our Authors purpoſe (more then to amuſe the Reader with Cotations) I cannot find, neither doth S. S. ſet forth the ſubſtance, whereby this Age might underſtand their *Drift* and *Intent*.

But *Cook*, who he quotes in his juſtification, was clearly of another Opinion to what S. S. would ſuggeſt; for in the Caſe he cites 12 Reports 23. That Lover of his *Pas. 5. Ja.* Country, and *England*'s Liberties, ſpeaking of Jurors Freedom by Law to give their Verdicts, declares, *That the Law will not ſuppoſe any indifferent, when he is ſworn to ſerve the King &c. To which agree* ſays he, *the Books in* 22 *Aſſ.* 77. *Aſſiſe p.* 12. 21 E. 3. 17. 19 H. 6. 19. 47 E. 3. 17. 27 H. 8. 2. F. N. B. 115. A.——*And the Law preſumes that every Juror will be indifferent when he is ſworn; Nor will the Law admit proof againſt this preſumption.*

But S. S. as conſcious of the nullity, of thoſe before recited Authorities, to juſtifie his Cauſe, gives us one, as he ſuppoſes, to purpoſe, viz. Wagſtaffs *Caſe*, *Trin.* 17. *C.* 2. *in* B. R. *This* (ſays he) *agrees with our preſent Caſe in all points.*

And concludes with this, '*Mich.* 16. *Car.* 2. in *Banco Regis*: '*Leech* and five other, being of the Jury, at *Juſtice Hall* in the 'Old-Baily, the laſt Seſſions, refuſed to find certain *Quakers* 'guilty, according to their Evidence, and upon that they were 'bound to appear in the Kings Bench the firſt day of the next 'Tearm; they appeared accordingly, and the Court direct-'ed an Information againſt them, and upon that they were fi-'ned.

Upon which S. S. concludes *the fining of Jurors, that find contrary to their Evidence is no innovation, but alwayes practized, and that by as learned Judges, as ever* England *Bred.*

We ſhall not much inſiſt upon the *imparity* of this laſt Caſe in

in its Points, to that in hand, being of little further uſe then to manifeſt the ignorance and falſity of our Author, ſo only ſay this to it, that (1) ſee his ignorance, that appears by his own ſhowing. *Leech*'s Iury, ſays he, were fined upon an Information brought againſt them in the *Kings-Bench*; which much varies from the Caſe of *Edw. Buſhel* &c. in that they were Arbitrarily fined by the *Bench* at the *Old-Baily*, without Information or matter of *Record*, or *being brought to anſwer by any preceſs of Law*, expreſly againſt the Stat. 25. *E.* 3. cap. 3.

(2.) See the impudent Falſity of this Libeller; Its acknowledged that *Leech*, with five other Jury-men, of whom were *Anthony Selby*, *Oylman*, in *Pudding Lane*; *Edward Briſcoe*, in *Lothbury*; ——*Brown*, a *Dyer*, in *Thames-Street*, *London* &c. Perſons of good *Reputation*, and well known in this *City*, were (as S. S. alledges) bound to appear in the Kings-Bench, by *R. Hyde* then chief Iuſtice, who after many foul *Reproaches* and daring *Menaces* to thoſe Citizens of *London*, (as is too frequent a practiſe in that *Court*) commanded an Information to be exhibited againſt them in the Crown Office, for acquitting ſome *Quakers*, who were given them in charge at the *Old-Baily*, to which they all willingly appeared; but that they were *fixed* thereon (as aſſerted by *S. S.*) is a moſt *horrid Untruth*; for *Hyde* never afterwards in his life time, was ſo hardy to proſecute the ſame to Trial; nor had *J. K.* his Succeſſor ſo much Courage to compleat his Predeceſſors——*Enterprize*, but prudently ſurceas'd the Suit: So this Caſe cited by *S. S* is but like the reſt of his *Authorities*, with which he would patch up and ſalve his *Patrons illegal and arbitrary Procedures.*

But that we may come more cloſly to the point in hand, Firſt, We abſolutely *deny S. S.* his *Concluſion*, and do affirm, that as well the *Fining* and *Impriſoning*, as otherwiſe puniſhing a Iury of twelve men (Impannelled to try &c. betwixt the *King* and a Priſoner) for giving a Verdict according to their *Conſcience*, though (in the ſence of the Bench and Iuſtices in Eier) contrary to Evidence, is an *Innovation*, and the practiſe of it againſt *Reaſon*, the *Law* of *England*, and the *Liberties* of its *Freeborn* People.

This Point is ſo conſiderable, that I may ſay and affirm, that the faireſt Flower, that now grows in the Garden of the Engliſh-

mans

mans *Liberties*, is a fair Tryal by his Peers, or Twelve of his *Neighbours*, which ſo much Artifice and Violence is uſed, by the wild *Bores* of our age, to pluck up by the *Roots*.

In order to its *defence* and *ſecurity*, let us firſt remove that grand *Objection* of our Adverſary, which he makes a Foundation for his after ſuperſtructure of *violence* and *Oppreſſion*; And that is from the 29th Chapter of the Great Charter, on theſe words, *Or by the Law of the Land*, intimating therefrom, that by, (or by the Law of the Land) is meant ſome other Judges, Judicature, or Juriſdiction, then Judgment of Peers, as in the third page of his *Pamphlet*.

The *Judgment* of *Coke*, (2 Inſtit 50) an undeniable Author, and authority, may ſerve to clear the point, who writes thus upon his Expoſition on (*per legem terræ*)

Firſt, *For the true ſence and expoſition of theſe words* (ſays he) *See the Statute of* 37 *E.* 3. *cap.* 8. *where the words*, By the Law of the Land, *are rendred, without due proceſs of Law. For there it is ſaid, though it be contained in the Great Charter, that no man be taken, impriſoned, or put out of his Free-hold without proceſs of Law, that is, by Indictment, or Preſentment of good and lawfull men,* 25 *E.* 3, & 4. *where ſuch Deeds be done in due manner, or by Writ original of the Common-Law.*

Secondly, *Without being brought in to anſwer, but by due proceſs of the Common-Law.*

Thirdly, *No man be put to anſwer without preſent-* 28 *E.* 3. 3. *ment before Juſtices, or thing of Record, or by due* 37 *E.* 3. 8. *Proceſs, or by Writ original, according to the old Law* 42 *E.* 3. 3. *of the Land*

By which is moſt *apparent* to every reaſonable *underſtanding*, that by the words (or *by the Law of the Land*) is not meant other *Juriſdiction, Judges* or *Judicature* (wherein, or whereby any man is to be tryed) as S. S. would *ignorantly* have it; but that the *Proceedings* againſt a *Free-man* of *England*, in order to the *Judgment* of his *Peers*, or *twelve Neighbours*, ſhall be according *to the Laws of the Land, as by Preſentment, Indictment &c.* Statute 37 E. 3 cap. 8.

And *Coke* declares, that *the ſaid 29th Chapter was but Declaratory of the old Law of the Land*, which knew no other Judgments, or Juriſdictions

Juriſdictions for its free Inhabitants, but *Legale Juditium parium ſuorum*; neither have the Free-men of *England* heard of any ſuch, except by thoſe arbitrary *Innovators*, who have felt the *ſmart* of their ſore *Oppreſſions*, by the hand of *Juſtice*, & have received condign *Puniſhment*, as due rewards for their introducing of new *Juriſdictions*, as the Reader may ſee at large, *Cook* 2 Inſtit. fol. 51. *Cook* 4 Inſt. fol. 41. And *Horns Mirror of Juſtice*, cap. 5. ſect 1. And this *ſeaſonable Caveat* and *Caution Cook* has left as a *Legacy* to ſuch Time-Servers, *Qui eorum Veſtigijs inſiſtunt, eorum exitus perhorreſcant.*

This having SHAKEN HIS SANDY FOUNDATION, by the ſtabliſhed Fundamental Laws, and the *Reſponſis Prudentium*, upon the Ancient Statutes of *England*. Let us try the ſtrength of his *Babel*-ſuperſtructure by the ſame infallable Rules and Meaſures.

Says S. S. [*The fining of Jurors has been alwayes practized.*] as pag. 33.

Anſw. Truly his Preſcription for time is unqueſtionable, if he but prove by *Authority*, what he barely affirms, but this I fear he will fall ſhort in: Does he bring his Examples Uſages or Cuſtoms (ſo to fine Jurors) from the times or Laws of *Alfred*, *Athelſton*, *Edmundus*, *Edgar*, *Canutus*, *Edward* the Confeſſor, *William* the firſt, *Henry* the firſt, Noble *and* Famous Princes *of this Nation*, (*many of whoſe Laws are yet in force,*) *from our Charter of Liberties, or cient Statutes of this Realm*? Nothing leſs.

But ſhould I grant that he had brought a Preſedent of later ſtanding to countenance the late illegal procedure (as by *Wagſtaffs* Caſe it appears he has) will it not deſervedly fall under the *Cenſure* of a *Tortious Uſage* (having neither the Statute, Law of the Land, nor Reaſon, the Ground of the Law to warrant or juſtifie it) which *Andrew Horn*, a *Writer of the Law*, in the Reign of *E.* 1. accounts no more of, then *thoſe of Thieves*, *whoſe Uſages are to Rob and Steal*, Mirror Juſtice *cap.* 5. *ſect* 1.

And that we may as aptly ſuit a *Caſe* to our Libellers, as he would have that of *Wagſtaffs* to *anſwer us*, Take a Reſolve of a Court not inferior to the *Conſideratum eſt* of the K— Bench,

whoſe Reaſon and Authority was never ſubjected to the Opinion of three or four intereſted perſons, as S. S. by his bold Pamphlet would have it: I mean the *Parliament* of the *Commons* of *England*, who upon Juſtice *K*—— fining of *Wagſtaffs* Iury Reſolved, *That he had uſed an Arbitrary and Illegal Power, which was of dangerous conſequence to the Lives and Liberties of the People of* England, *and tended to the introducing of an Arbitrary Government.*

11 *Dec.* 1670. Lib. aſſerted, pag. 60, 61.

And that the Preſedents and Practice of Fining and Impriſoning Juries for Verdicts, is illegal.

Hence we may obſerve, that (*Illo die*) Englands *Fountain of Juſtice* was clear and wholeſom, although the *Rivolets* or leſſer Streams might be troubled and corrupted.

Therefore it's worthy our obſervation what *Cook*, that Maſter of Reaſon (directing himſelf to the *ſobordinate Courts or Seats of Juſtice* ſaid, Quod ſatius eſt petere fontes, quam ſectare rivulos. (adding) *That they ſhould aſſuredly proſper and flouriſh in the diſtribution of Juſtice, if they derived all their Power and Strength from their proper Roots:* Adviſing them, *Not to fear to do Right to all, and to deliver their Opinions juſtly according to the Laws.*

Cook 4 *Inſtitu.* Epilogue.

This wholſom Advice, had it been but timely received by *J. K.* might have prevented that Preſedent of *Oppreſſion*, quoted by our Author, which raſh and unadviſed Sentence of his the Parliament took occaſion ſo to rebuke, though *S. S.* &c. to commend and immitate.

Wagſtaffs Caſe 17. Ca. 2.

The *Auguments* and *Reaſons* againſt Arbitrary Fining of Iurors reſpect a two fold *Intereſt*, viz. The *Freedom* of *Jurors* in particular, and the *Freedom* of the *People* of *England* in general, who are equally hurt and wounded by the conſequence of ſuch *tortious Proceedings.*

1. Firſt, Its unreaſonable ſeverity, that a Iuror ſhould be enforced to appear (*Nolens aut Volens*) at Aſſizes or Seſſions of Peace, and there to be ſworn. *Well and truly to try, and true deli-*

verance

verance make, between &c. according to evidence; and when he has conſcientiouſly performed his Duty, (for which he receives no Reward) to be Fined at the Will of a Mercenary Iuſtice.

2. Secondly, If a Court has Power Arbitrarily to *Fine* a Jury, that give not in a Verdict according to their ſence of this or that *Fact in Iſſue*, it muſt be becauſe the *Bench* is preſumed to have a fuller or nearer *underſtanding* of the matter in iſſue, then the *Jurors* can, which is clearly otherwiſe in the ſence of the Law; and appears in that the Iurors Summons is for perſons (*Per quos rei veritas melius ſcire poterit*) by whom the Truth of the matter may be better known.

3. Thirdly, If the *Integrity* and *Honeſty* of perſons judging are to be eſteemed of weight, to evidence the Equallity of the *Judgement* given; then, ſurely twelve Honeſt Men of the Neighbourhood, where the Offence (if any) was committed, are the moſt proper *Judges*; ſince that twelve men may neither be ſo eaſily corrupted as one ſingle perſon, nor their *Judgment* of ſuch fact (twelve men agreeing in one) ſo likely to be erroneous, as the ſingle apprehenſion of one.

4. Fourthly, If *Satisfaction* is to be made to a Party grieved, how can it be done more fully and equally then at the *choice* of the perſon offended. The *People* or *Neighbourhood*, who are pretended to be *wronged* or *injured*, are called to be judges, to redreſs their own *Grievances*; and ſurely that *Satisfaction* they meaſure out to themſelves ſhall be judged *Correſpondent* to their ſuſtained Damages.

5. Fifthly; If our *Predeceſſors* had thought that the Arbitrary Determination of a Bench of Iuſtice, had been as equal a Iudgment, as that of our *Peers*; ſurely in vain did they exſpend ſo much *Blood* for the reprizing the latter, and exterpating the former, *Cook* 2 Inſt. prefact.

6. Sixthly, If a *Bench*, or *ſingle Juſtice*, *Recorder*, *Bailiff &c.* ſhall have power to fine and impriſon a *Jury* of twelve men, until

they *gratifie* their *Wills* and *Pleaſures* in their *Verdicts*, which of our *Lives* and *Liberties* can be ſecured againſt the *Luſts* of ſuch *petty Prerogatives*, when the Courts Diſcretion, not the Law of *England* (*our Birthright*) ſhall be the Standard to meaſure out every mans Deſert and Portion. Vide *Cook* 4 Inſt. fol. 42.

We might in this ſort much more enlarge to evince of how evil conſequence theſe Arbitrary Practices are, and will be to the Engliſh conſtitution of *Government*. But I have here uſed the more of Brevity, in as much as this Caſe needs no greater, or further Argument to enforce it into any mans Underſtanding, then his being an *Engliſh-Man*, and ſo Born *Free*, and not a *Slave*.

But altogether to omit our Stabliſhed and Fundamental Laws would be as blame worthy, as tediouſly to enlarge upon them. Therefore I ſhall from them, and ſome Maximes of the Law of *England* further prove the Unreaſonableneſs and Unjuſtneſs of ſuch *Arbitrary Proceedings upon and againſt Juries.*

1. *Firſt*, Such Proceedings are abſolutely againſt the Great Charter of Liberties, as cap. 14. *No Freeman to have Amercements aſſeſſed upon him, but by Good and Honeſt Men of the Vicinage.* As alſo cap. 29. *No Freeman to be Condemned without the lawful Judgment of his Peers.* Which two Chapters by Reaſon and Arguments (in that Diſcourſe of Liberty Aſſerted at the Tryal of *Wil. Penn* and *Wil. Mead*) are by that Author expounded, and applied to this preſent Caſe, as the Reader may find at large, pag. 46, 47, and 48. of that Treatiſe.

Co. 2. Inſt. 28.

2 *Inſtitut.* 48.

2. *Secondly*, Such Arbitrary Judgements are againſt the Statute of 25 *E.* 1. cap. 1. which ſaith, 'That Juſtices, Sheriffs, Mayors, 'and other Miniſters, which under us have the Laws of our Land 'to guide, ſhall allow the ſaid Charters to be pleaded before them 'in all their Points. *This is a Clauſe* (ſays Cook) *Worthy to be written in Letters of Gold, that the Laws are to be the Judges Guides, and therefore not the Judges to guide the Law by their Arbitrary Gloſſes, which never yet miſguided any, that truly followed them.* Cook 2 Inſt.

Now

Now to Fine and Impriſon Jurors for their Verdicts, which by the Laws of *England* they are to give freely, is waving the Rules of Law, and embracing their own Diſcretion for a Guide in giving of Judgments. Notwithſtanding it's expreſly Enacted, *That if any Judgement be given contrary to the Point of the Great Charter* (which was declaratory of the Common Law) *by the Juſtices, or other the Kings Miniſters, it ſhould be Undone, and holden for Nought.* Stat. 25. *E.* 1. cap. 2. Cook 2 Inſtit. preface.

3. *Thirdly*, By the Statute of *Weſtminſt.* 1. *Anno* 3 E. 1. it's thus Enacted, *Rex vult & precipit quod Juſtitia ſingulis tam— quam— nulla habita Perſonarum ratione*, That Juſtice ſhall be done to all without reſpect of Perſons. Co. 2 Inſt. 161.

This (ſays Cook) *is an antient Maxime of the Common Law, repeated and affirmed amongſt the Law, of King* Edgar. *And* Fleta (ſays that Author) *reciteth this Fundamental Law in few words, Quod Communis Juſtitia ſingulis pariter exhibeatur*; That Common Juſtice be afforded to all. Lib. 1. cap. 29.

If Jurors then be Freemen of *England*, I know not wherefore they ſhould be denied that common right (in caſe they offend the Law) of Trial by their Peers; and have a Judgment paſſed upon them againſt this Common and Fundamental Law, which is commanded by the expreſs words of the Statute, *Inviolabiliter Obſervanri*, be to Inviolably Obſerved; *that Peace may be kept in this Land.* Cook 2 Inſt. 161.

4. *Fourthly*, *Cook* in his 2d Inſt. fol. 689. affirms that, *Ratio Legis eſt Anima Legis*, The Reaſon of the Law is the Soul of the Law; and therefore ſays he, *Quæcunque intra Rationem Legis inveniuntur, intra ipſam Legem judicantur*, Whatſoever ſhall be found to be within the Reaſon of the Law ſhall be adjudged to be within the Law.

Had the *Law* of *England* preſumed, That a *Mayor*, *Juſtice*, *Bailiff*, *Sheriff* &c. had been more knowing, and ſo more proper

per Judges, who might give a better and more equal Determination (of ſuch Facts, which for deciſion came before them) then a Jury of twelve men could, or would do: Surely the Law would then have left all Controverſies to their ſole *Arbitrary Determination*; and never have required and commanded Tryals by *Jurors*, which are not only chargeable to the Iury-men (Freeholders of this Nation) by reaſon of their Attendance and Expence at Aſſizes and Seſſions, but alſo dangerous, and hazardous to perform, and do their Duty there.

But according to that Maxime, *Lex intendit vicinum vicini facta ſcire*, The Law preſumes that each man beſt knows his Neighbours Actions: Therefore the moſt proper *Judge*, whether to *condemn* his Neighbour as guilty, or to *acquit* him as innocent. So we muſt either loſe our Reaſon, or conclude it Illegal and Irrational, that *Juſtices* whom the Law (*quo ad hoc*) concludes Ignorant, ſhould judge or condemn Jurors (for Ignorance) whom the Law (*quo ad hoc*) concludes more knowing then *themſelves*.

Cook 1 Inſt. 78.

5. *Fifthly*, the fifth *Reaſon* and *Argument* to evince the Illegallity of ſuch Arbitrary Proceedings, may be drawn from that Maxime of Law, more then once uſed by the learned *Cook*, viz. *Lex eſt tutiſſima Caſſis*, The Law is the ſureſt Sactuary that a man can take, and the ſtrongeſt Fortreſs to protect the Weakeſt: Yea (ſaith that Author) *Sub clipeo Legis nemo decipitur*, It fails none that put their truſt in it. We have no reaſon to believe, that that Author put an *Encomium* upon the *Laws* of *England* (we mean the Fundamental Laws, the Charters of Liberties, of which he then treated) beyond their *real Worth* and *Value*: But muſt rather conclude, that ſuch *Arbitrary Proceedings*, which leave the Freemen of *England void of Defence*, and *Remedileſs* of *Relief*, are not according to the Rules and Maxims of *Law*, but clearly *otherwiſe*.

2 Inſt 56. and 526.

And that the Fining and Impriſoning of Jurors are ſuch, may further appear in theſe Particulars.

Firſt, In that the Jurors are condemned without a Tryal, whether

whether they have *done* their Duty *or not*; that is, whether they have found *with* or *againſt* their *Evidence* &c.

2. Secondly, In that the Iudgement againſt them (be it Vitious or Erroneous, either in reſpect of the irregularity of the Proceedings or nullity of the Fact charged upon them) cannot be *examin'd* or *revers'd* by Writ of *Error*.

3. Thirdly, In that no ſuch *Superiour Court* can receive or hear their Appeal, as upon Indictments, and all other Proceedings by due courſe of Law they might.

Manifeſting that ſuch Arbitrary Proceedings againſt *Jurors* are far more *ſevere* and *hard*, then any Convictions of *Traitors*, *Thieves*, and *Murderers*, (who are apprehended (*Flagranti Delicto*) and tryed by due Courſe of Law.

And ſince they are ſo unreaſonable that they allow not a Iury of twelve (*Boni & Legales Homines*) Good and Lawful Men, neither liberty of defence before Iudgment, nor an after Tryal or Examination of the Fact for which they were condemned, we muſt neceſſarily conclude them *Illegal* and *Irrational*, ſo *null* and *void*, according to that known Maxime, *Ceſſante ratione Legis ceſſat ipſa Lex*: And leave them to that juſt Cenſure of the Parliament of the Commons of *England*, THAT THEY WERE INNOVATIONS IN THE TRYALS OF MEN FOR THEIR LIVES AND LIBERTIES. *Co.* 2 Inſt. 11. *Votes Par. Ang.* 11. *Dec.* 1667.

S. S. his 2d, 3d, and 4th Remarks Examined.

(Saith *S. S.*) If it be objected, That in the preſent Caſe, being an Indictment for a Treſpaſs, an *Attaint* doth lie, and therefore ought to be puniſhed in *Attaint*. Which he thus himſelf anſwers, *Brook* Title *Attaint* 130. ſaith, *Et ſic admittitur, quod ſi le Roy fuit merement. Party, Attaint negiſt.* Where the King is ſole Party Attaint doth not lie: In our preſent Caſe, the

the King is ſole party, and therefore by the old Law no Attaint doth lie.

In the anſwering of his own Objection the Author has taken up no leſs then four or five Pages of his Diſcourſe; and the whole of his ſecond, third, and fourth Remarks, in quoting nine or ten Book-Caſes and Statutes, to prove his Aſſertion, that no Attaint lies where the King is Party; Ending his Libel thus —— 'From theſe four Remarks I *conclude Nothing*, but 'leave the Determinationof this important Affair to the honora-'ble Sages of our Law; and Pray, that in this, and in all other 'Buſineſſes of Concernment, that God(the Great Iudge of Hea-'ven and Earth)would guide and direct them.

Anſw. 1ſt The Righteous God (whom this Libeller imprecates) has declared. *That the Prayers of the Wicked are an Abomination to him*, Prov. 15. 9. and 28. 9.

2d The *Frivolouſneſs* and *Impertinentneſs* of this Ribaldry to the Controverſie in hand, will appear to the meaneſt Capacity, that will take the pains to compare it, to the Libellers own Text, viz. *The fining of that Jury that gave two Contrary Verdicts Juſtified.*

3d The *King being Party, ſo no attaint lies* (the matter of theſe three laſt Remarks) is ſo far from being an Objection, to be offered by the Friends of thoſe oppreſſed Iurors, that they not only grant to him, that no attaint lies againſt ſuch Iurors, but that it is *horrid Injuſtice* and *Oppreſſion* to puniſh them by that, or any other way; which we ſhall clear briefly in theſe Particulars.

1. Firſt, It might ſuffice any rational man, That *Jurors*, betwixt the King and Priſoners, ought not thus (by Arbitrary *Fines*, or other Means) to have puniſhment inflicted upon them, in as much as the Ancient Common *Law* of *England* is ſo far from directing of *Paines*, that it declares, *That all Reſtraints of Jurors are Abuſions of the Law:* Which we have from *Andrew Horn*, a learned Writer of the Law in the time of *Ed.* 1. who amongſt the

the great abuſes of the Common Law (*for ſome of which King* Alfred *executed ſeveral of his corrupt* Judges) ſets down this, viz. *It is Abuſe to compel* Jurors *to ſay that which they know not, by diſtreſs of Fine and Impriſonment, after their Verdict.* And that this is the *Statute Law* to this day may appear. Title Abuſions of the Common Law; cap. 5. ſect 1.

2d, In that the *Grand Councels* of *England* in *Parliament* have no leſs then Twenty ſeveral times, given their Judgments about the falſe or vitious Verdicts of Jurors; Enacting twenty one *Statutes* for the correcting and puniſhing of ſuch Defaults. And doubtleſs, (they having been ſo often near the Point) had the Law of *England*, and *Right* and *Liberty* of its People, admitted of ſuch *Puniſhments*, as the *Adverſaries* of both at this day put in practice, they would have let us underſtood it, and not ſuffer the Law ſo many Ages to be (*Vagum & incognitum*) But thoſe *Councels* making no ſuch Breach upon our *Fundamental Laws*, *Rights*, and *Liberties*; and this our preſent *Parliament*, by their *Reſolves*, confirming the ſame, we may and muſt aver the contrary procedures, *Innovations*, ſo *illegal* and *oppreſſive*. But to conclude. *Vide Poltons ſtatutes, Title Attaint.*

3d *Lex ſemper intendit quod convenit Rationi*, The Law (ſays *Cook*) alwayes intends that which is agreeable to Reaſon. And *Reaſon* will with eaſe *reconcile*; wherefore the *Law* has not preſcribed nor directed a *Puniſhment* for Jurors, who give a Verdict according to their *Conſciences*, though contrary to the *ſence* of a Court or Bench of Iuſtices in Cauſes where the King is Party, as for *Fellony*, *Treſpaſs*, *&c.* viz. As our *Engliſh Government* is now ſtabliſhed (*Poteſtas Regia eſt facere juſtitiam*) It's regal power to do Iuſtice. And therefore all Indictments are proſecuted in the name of the *King*, although the Fellony, Treſpaſs &c. was committed upon the People, who really received the *Tort* and *Wrong*; yet becauſe the King has undertaken, for the Safety, Defence, and Protection of his Subjects, the Treſpaſs &c, is ſaid 1 Inſt. ſect 103 *Co.* 2 In. 375.

to be done to him: Yet Experience and Reason tells us, that the *People* of *England* are not therefore the less *interested* in, nor will be the less careful of the Security of their Persons and Estates, but do and will use their uttermost endeavour to defend the first from Violence, preserve the second from Ruin. So 1st the (*Boni & Legales Homines*) or Jurors impannelled to do Iustice upon such Fellons &c. being Free-born *English-men*, and as neerly interested and concerned in the Punishment of publick Offendors, as any, who are said to Prosecute. And 2dly, The *Law* presuming they would be no more *Treacherous* to their own *Peace* and *Safety*, then the *King* faithful to preserve them, thought good to lay no other *Obligation* or *Engagement* upon Jurors in such Cases, but the consideration of their own *Weal*, *Peace*, and *Safety*; which many hundred years, has by experience been found sufficient, Till *Justices* on the Benches and Seats of Judicature turned Informers and Prosecutors, and instead of not knowing persons in *Judgment*, appeared (contrary to their Oaths) as Counsel for the *King*, and *Prosecutors* and *Executioners* upon the *Prisoners*.

Stat. 28 *E.* 1. *Vide* Cook 2 Inst. 178, 179.

This I shall take the Liberty to *Remark* upon S. S. the Writer of that *Scandalous Libel*, that however he would recommend himself to the King and Country, as a Man of Reputation and Truth, or at least to the deserving, the estimation of *Learning* and *Ingenuity*; this Work of his has given them an opertunity to take other *measures* of his *Deserts*, who has in this one Section of his Libel, not only manifested meer Falshood in his Charge, but also Ignorance in his Proofs.

First, His Falshood appears, in calumniating the *Jurors* with meer Untruths, and that by his own shewing.

Secondly, His Ignorance, in that he has not in the least colourably justified his Assertions, or those Practices of his Patrons (whom he appears for) against the Jurors. Yea, I may say that his *Folly* has so accompanied his *Knavery*, that he needs no other Character then his own Work in Print.

And whether he has Reason to assume that *Title* he takes to himself in the Front of his Piece, viz. *To be a Friend to Justice and*

and Courts of Juſtice. I ſubmit to thoſe of the *Long-Robe*, he allarums to look to themſelves, and to the juditious *Reader*, that will weigh his *Diſcourſe*; For my own part, I am not in the leaſt jealous that he is any ſuch *Perſon*: But if this Author would favour us with the knowledge of his name, then *Juſtice* and its *Courts* might expreſs their Gratitude, for his ſeaſonable Vindication of them; and the *Mayor*, *Recorder's &c.* Candor and Integrity in their juditial Proceedings, at the *Old-Baily*, againſt the *Jury* and *Priſoners*.

Leſs then this I could not ſay, by reaſon of thoſe falſe Aſpertions that this *Libeller* has caſt upon my Friends the Jurors; to *enlarge* I ſhall forbear, inaſmuch as the Author has cloſed his Diſcourſe with pretence *to leave the important affair to the Judges determination*, whoſe Judgments I deſire may, and I hope will be meaſured by the ſtreight Metwand of the *fundamental Laws* of *England*, and not by the crooked Line of *Diſcretion*, for ſays the wiſeſt of Men, and nobleſt of Princes, *Co. 2 Inſt. Qui derelinquunt legem, laudant improbos; at qui obſervant legem, miſcent prælia cum illis.*

I had no other end in this ſhort Diſcouſe, but to vindicate *Truth* and *Juſtice* from *Falſhood* and *Violence*; ſo my earneſt Zeal is, that the firſt may ever ſtand over the heads of their *Oppoſers* and *Oppreſſors*.

Newgate Priſon in *London*, the 12th Moneth, 1670. } **T. Rudyard.**

Postscript.

TO Answer the *Libellers Challenge*, and defend the *Author* of the *Tryal* &c. in reference to *S. S. S.* it may not be impertinently observ'd, that if he will please to enquire of one *John Barnes* of *Hornsey*, whether the late Mayor was not a Commissioner for setling the late Powers Militia, and so brisk and sharp a Reflecter upon those that went under the notion of *Cavaliers*, above the rest of the Committee, as to incur the rebuke of his Brother-Commissioners; we hear that he may receive very ample satisfaction, if it may be any to be found in a mistake of what he so confidently ventur'd to assert.

Nor is it less worthy of notice, that upon enquiry made of Dr *Whitchcock*, he could not but acknowledge, that *S. Sterling* was so far from deserting the University, for want of conformity to the *Scotish Covenant*, that it never was tender'd to any of that Colledge.

Which is not remarkt out of Prejudice to the Mayor, but love to the *Truth*, and a desire to manifest his *libellous Apologist*, who rather then his *defensive Flatteries* should fail his *Diana*, or his injust Slanders miss us, resolves to break through all the bonds of *Truth*, *Law*, and *Religion*. Not that we would render it so criminal to serve the Nation under both Govenments, as (having served both) *to persecute either*.

But we will end the whole with this solemn Declaro', and protest,

First, *That we are Free-born English-men, and esteem our selves undoubted Heirs of our Countries Liberties, not to be dis-inherited upon any religious* Difference, *it being no* Clause *or* Proviso *in our first* Civil *Constitution, or* Fore-fathers last Will and Testament.

Secondly,

Secondly, *That we have been deprived of our dear* Liberty *and* Property, *and that meerly for* Worshipping *the God that made* Us; *againſt all* Law, Reaſon, *and* Scripture (*particularly at the* Old-Bailey.)

Thirdly, *That notwithſtanding ſuch daily provocations, we do as heartily forgive, as we are maliciouſly perſecuted*; (*bearing no ill-will to the perſons, of any*) *The Title and Tenure of our holy Goſpel being Glory to God on High, on Earth Peace, and Good-will towards all men.*

And we could deſire of God (if it might pleaſe him) to open their Eyes, and affect their Hearts with a right ſence of things, *that they might underſtand how much more it would be their true Intereſt to rebuke* Vice, *then puniſh* Opinion, *and that in themſelves firſt*: *So would Oppreſſion ceaſe, the Spring-Tides of Intemperance* fall; *& Mercy, Truth, Juſtice and Peace flow over all the Banks of Animoſity, Self-intereſt and Revenge*; to the once more refreſhing of our *Weary, Dry and Parched Country, with the pleaſant Streams of thorow Reformation.*

From *Newgate* Priſon in *London*, the firſt Moneth, 1671.

W. Penn.

THE END.

Courteous Reader,

THou art desired to place the numerous Errors of this Discourse to the account of difficulty in Printing any thing that comes not out with an IMPRIMATUR in the front of it: But as we can't fly to the Hills, to hide us; so will it be esteem'd civility in thee to excuse the Authors from the Mistakes; be they Points, Letters, Syllables, or whole Words. A short Collection follows.

Page	Line	Errors	Corrected
3	17	Gilt	Guilt
	18	ſrcipta	ſcripta
	19	become	becomes
4	4	imply	imploy
5	laſt	doubted	thought
12	laſt	Chriſt	God
16	1	ginious	genius
19	15	conformed	conform
27	17	maind	man'd
39	23	Goaled	Goalers
40	5	Mead	Mead's
41	7	they	we
	17	or	for
43	2	ſo	to
	14	commanded	they commanded
44	12	it was the	they were
50	3	out-ſtript	out, ſtript
	7	Friend	Friends
52	10	impudent	imprudent
53	20	the	their
54	laſt	that	that it
59	11	This	Thus
	25	cient	ancient
	28	it appears	he pretends
60	28	Angumments	Arguments
	33	Proceedings	Proceedings as appears (thus.)

Agabus, of whom is made mention in the *Acts*, he was indued with the spirit of Prophesie.

Linus, remembred of *Paul*, he was the first Minister at *Rome* after *Peter*.

Paul made mention of *Gaius*, he was Minister of *Ephesus* after *Timothy*.

Paul remembers *Olympus*, he was beheaded at *Rome* with *Peter*.

Paul made mention of *Rodyon*, he was beheaded at *Rome* with *Peter*.

Jason is remembred in the Works of the Apostles, he was Minister of *Tarsus*.

Sosipater is remembred of the Apostles, he was Minister of *Iconium*.

Lucius is remembred of *Paul*, he was Minister of *Laodicea* in *Syria*.

Tertius wrote the Epistle of *Paul* to the *Romans*; he was second Minister of *Iconium*.

Paul made mention of *Erastus* to the *Romans*; he was Steward of the Church of *Jerusalem*, and afterwards he was Minister of *Paneas*.

Paul remembred *Phygellus*; he was Minister at *Ephesus*.

The Apostles made mention of *Hermogenes*, as one that brought false Doctrine to the Church; he was Bishop of *Ephesus*.

Paul wrote of *Demas* that fell from the Faith; this *Demas* became an Idol Priest of *Thessalonica*. *John* said *They went out from us, for they were not of us*.

There is mention made of *Quartus* to the *Romans*; he was Minister of *Berytus*.

Paul made mention of *Apollos*, in his first Epistle to the *Corinthians*; he was Minister of *Cesaria*, and of *Iconia*.

Paul remembred *Sosthenes*, he was Minister of *Colophonia*.

Paul makes mention of *Epaphroditus*; he was Minister of *Adriana*.

Paul remembers *Cesar*; he was Minister of *Dyrhachium*.

Paul made mention of *Marcus*, he was Cousin-German of *Barnabas*, a Minister of *Apollonias*.

THE END.

Truth Rescued FROM IMPOSTURE.

OR

A Brief REPLY to a meer *Rapsodie* of *Lies*, *Folly*, and *Slander*;

But a pretended *Answer*, to the *Tryal* of *W. Penn*, and *W. Mead* &c. writ and subscrib'd S. S.

By a profest Enemy to Oppression.
W. P.

A Fools Lips enter into Contention, and his Mouth calleth for Strokes, *Prov.* 18. 6.
A Whip for the Horse, a Bridle for the Ass, and a Rod for the Fools Back, *Prov.* 26. 3.

Printed in the Year, 1670.

The Preface to the Reader.

MEN and Women of underſtanding, conſider, as you read this Book through, what has gotten up ſince the Apoſtles dayes: O that ever ſuch Darkneſs ſhould be riſen, to form and decree ſuch things, as you may ſee in this Book: *But that the Starres fell from Heaven, and the ſmoak of the bottomleſs pit was opened, when the firſt Beaſt roſe out of the Sea, and the ſecond roſe out of the Earth, with two Horns like a Lamb*; this was he that ſet up his Worſhip (mark, like a *Lamb*) not like a *Heathen* and a *Turk*, but like a Lamb; whom all the Martyrs have found to be a *Dargon*, a *Bear*, and a *Leopard*; who hath cauſed all both great and ſmall to worſhip him, and to receive his Mark, who have not their Names in the Book of Life; So herein you may ſee the year when his Maſs got up, and the year when he got up, and the year when he ſet up his Holy-days, and his Curſes, and his Beads, and his Purgatories, and his Candles, and his Oaths, and his Tythes, and the year of his hallowing his Fonts, and ſetting up his Croſſes, and the bringing in of his Organs: Read this through, and thou wilt arraign him, and the whore that ſits upon him, and bring him under the Judgment of the Primitive Church, which Chriſt is the Head of.

Alſo, herein thou mayeſt ſee how the Whore has been drunk with the Blood of the Saints and Martyrs, and the time when he invented his Inquiſitions to torture the poor Martyrs; and what pitiful Deaths he put them to: O! that ever the Devil ſhould invent ſuch ſtratagems, who was a Murderer from the beginning! Here you may

e fulfill'd his lusts to the purpose, in drink-
od of the Martyrs, which is the Seed of the
...l. And also you may see *Cain* and *Abel* sacrificing,
and *Cain* murthering *Abel*. And also herein you may see how the *Papists* have deceived the people, in saying the Pope set in *Peter's* Chair ever since the Apostles dayes; when as it was above Six hundred years before he got up to be Head of all other Churches; and then he got up by a Murderer, one *Phocas*, who murdered *Mauritius* his Master, who was Emperor, and then the said *Phocas* was made Emperor, who set up the Pope; and their Religion, Church and Worship, has been upheld by a Lye, and ...egun by a Murderer, and is upheld by Murdering ...ill; for the Church at *Jerusalem* was the Head Church a long time after the Apostles, and not *Rome*; for the Heathen Emperors lived at *Rome*, that persecuted the Christians in the time of the Ten Persecutions (as the Pope doth now) which lasted about Three hundred years, till *Constantine* the Emperor was converted to be Christian, whose Seat was at *Constantinople*; and then the Church of *Constantinople* came to be in esteem; and Three hundred and ten years after Christ, *Lucina* a Maid of *Rome* dyed, and made *Marcellus* Bishop of *Rome*, to be her Heir and Successor; and from that time the Bishops of *Rome* came to be greatly enriched.

Benjamin Laurence
his Book

To the READER.

I *Take him to be an* unhapy *man, that knows not an Enemy upon Earth; and therefore judge my ſelf not a little* happy *to be ſo ill reputed by* S. S. *that of all men, I have reaſon to believe one of the moſt* infamous. *Yet, that I may be juſt to him, as well as to my ſelf, I do beſeech the* Reader, *firſt to peruſe his* Fardle *of Impoſtures, and Abuſe, before thou read'ſt me; leſt thou ſhouldſt think I have wrong'd him in citation:* So ſcurrilous, ſo falſe, and withal ſo ridiculous is, he in his whole conceited Enterprize, *that but a little charity would make one think, that no man could be ſo great an Enemy to* Truth, *and to* Himſelf.

Surely, his Fondneſs of being in Print, wholly blinded his diſcretion, or elſe methinks he would have ſtopt't, to give ſo great an evidence of his Folly.

One would have thought it Impudence *enough, to act ſuch* Tyranny *without an* Appology *to defend it. But as that's an aggravation of his Gilt; ſo let the man remember, that* Litera ſcripta manet.

I know it well becomes his Front, *and every part thereof bears exactly his reſemblance.*

'Tis pitty but all the Peoples Enemies *ſhould give as* wiſe *grounds of their abuſe, of them, and their Laws, as this* Man *has done.*

I am concern'd in a double ſence: Firſt, in defence of my Conſcience, *and therein, the* Liberties *of my* Country. *And next, of the* Reputation *of my* deceaſed Father, *by him*

injur'd, beyond the instance of a Presedent, *or allowance of an Excuse.*

Being then, thus boysterously attaqu'd in my Religious, Civil *and* Natural Capacity, *let not any wonder, that I imply the* force *of all to my just defence; And if I have so much credit with the* Reader, *believe me, I will (without the least Scruple) give him his* compleat weight and measure: *for I desire not to hold my* Life *or* Liberty, *on better tearms, then whilst I am bold to justifie the* Truth *at any Cost, against the false and peevish* Essays *of her* Adversaries.

Truth

Truth Reſcued from Impoſture, &c.

Part I.

I Have to do with one, who dares to profeſs himſelf a *Patriot* and that of ſo great importance to his Country, as on his happy Cry of *(Miles noli regem ferire)* the Safety of King and Kingdom have their ſole dependance. Page 1.

But, as I am perſwaded, that piece of *Arrogancy* was unexpected by moſt, and his inability too notorious, to admit any the leaſt jealouſie of ſuch an Enterprize; ſo has he given the greateſt Stroke imaginable to himſelf, and thoſe he would ſeem to vindicate, in offering at the poor *Quakers*, for whom *his weakneſs makes ſufficient Appollogy*; and amongſt them, I am not the leaſt, that ought to account my ſelf indebted.

The ſecond diſcovery of himſelf, is not leſs *Incharitable*, then the firſt was *Proud* and *Impudent*.

He does not only take occaſion to fall moſt fooliſhly upon our Tryal, but as unwarrantably believes 'twas I that writ it; but ſhould I grant him ſo much *Faith (for I believe him to have little)* I ſhall appeal to all impartial men, If a bare Conjecture (and more he proves not) be ground ſufficient for him to vent ſo many rank Reflections, and that not only upon my ſelf, but my *deceaſed Father*: It either argues he had better Intellegence, in the following Pages, or that his deſire I ſhould be *Author* of it, had changed his *Faith* into a *fancied Certainty*, which gives ſufficient teſtimony of his Prejudice. Page 1.

And as if he [illegible] there might have been another *William Penn*, the ught

Penn, that might be an whole *Quaker*, he is pleaſed to diſtinguiſh me from him, with this diminitive Expreſſion, of *William Penn the half Quaker*, thereby intimating how much worſe he ſuppoſes *half Quakers* to be, then *whole Ones*; for none can think he ſaid ſo *out of Kindneſs to me*, when his Diſcourſe not only ſingles me out for all Abuſe; but as not contented with that, *diſturbs my Fathers Grave* with his forg'd Aſperſions, and then places them to my *Accompt*.

But whilſt I think not my ſelf a little injured by his ſcurrilous *Epethite* (*believing he meant, I was not a ſincere, but intereſted and turbulent One*) I heartily rejoyce, *that out of his own Mouth he has juſtified my Friends*, by preferring an *intire Quaker*, before all *half, or mungril Ones*; yet if an half one be ſo fatal, and heavy on the Shoulders of Oppreſſors, *that they do ſcarce dare to own their own Appologies, how dreadful muſt an whole One be?* He ſays in this Expreſſion, ſo much for us, that he ſcarcely needs more againſt himſelf.

But becauſe he believes I writ it, *therefore he can give it no other Name* (to uſe his own words) *but the Second Part to his Blaſphemous Treatiſe, called the Sandy Foundation ſhaken*: O egregious Nonſence! This ridiculous *Non ſequitur*, either ſhews him, to have been a man of a very flegmatick head, or elſe that he has ill beſtowed his time, who can write no better ſence yet; for, that theſe two Subjects are in the nature of them very different, is manifeſt. But perhaps he thinks it no ſmall piece of *Blaſphemy*, *to tell the World of the late irregular Proceedings at the Old-Baily*: Nor does he leſs wound his own Cauſe by acknowledging the Book entituled, *The Peoples Ancient and Juſt Liberties Aſſerted*, (which deſigns to detect, on what Foundation the *Mayor*, *Recorder*, *&c.* did proceed) to be the ſecond part to the *Sandy One*, manifeſtly implying *theirs to be ſuch*.

Page 1.

His ſenſe of my *Faith*, or rather *Disbelief* of the *Trinity* is a wretched Miſtake, not to ſay a voluntary one; for I never quarrelled the word *Trinity*, it being borrowed of the Latine word *Trinus*, in Engliſh *Three*, but alwayes did, and do believe the ſame.

But why ſhould I inſiſt upon a Point ſo abſtruſe; and that, to a man, ſo unintelligent in more minute matters, as that he hath not

yet

yet learnt a distinction betwixt Discourses of *Civil Liberty*, and *Divine Faith*, but ignorantly makes the one, to be a necessary Consequence, from the (*Supposed*) Mistake in the other.

I might here over-look his abusive Reflections upon me, as *Author of the Trial, &c.* (which he urges with no small Zeal) by unconcerning my self in the matter: But I confess to owe so much of Real Kindness to the Author, and many parts of the Discourse, that I shall gladly imbrace the occasion of making his Defence.

The *Man* resolving I must be the Author, sets me up as such, and then fights me, or rather pelts Dirt at me: He says that, Penn *does not blush to Vilifie the Kings Court, and falsly Reproach the Kings Justices, and revile all Methods of Law, calling Indictments detestable Juggles; and his, a Romance Indictment*; and W. Mead, *his, a Bundle of Stuff*: Page 1. Page 2.

Penn *designing, in a popular way, to subject the Laws, making the Jury Judges both of Law and Fa[illegible]*

If I had blusht, it must either have been from [illegible] Guilt, or by way of reflection from the *Bench*; but as I was [illegible] innocent of that *Crime*, which could have made me [illegible] so was there not *Modesty* enough, amongst some of the [illegible] to *blush* at their *Irregularities*.

I detest that *Aspersion, of vilifying Law, or reproaching the Kings Justices*; since the greatest Crime some observed against me, whilst at the Bar, *was my frequent Demands of Right*, by those very Fundamental Laws, I am charged to have contemned.

These are but meer *Phrases* of Abuse, ready at every mans hand, for his interest,

Indictments I Esteem not *Juggles*: nor do I believe the Author intended so; but that way of crouding most unnecessary and untrue Allegations, under the pretence of Form of Law, contrary to all Reason, is no less: This is explained by him, and his own sence fully vindicated.

He therefore understood what he said, when he compared the falsity of our *Indictment*, to that of a *Romance*, which however methodical, yet is but *meer Fancy still*. For those things being absent that render an *Indictment* true, it will follow that such an

Indictment,

Indictment, is altogether incongruous and inapplicable. It is an hard Caſe that men ſhould ſo *Nickname* things, as to call an *honeſt Confidence*, *Impudence*; and my aſſerting of *the Supremacy of Fundamental Laws*, againſt their *new Inchroachments*, a ſubverting of them.

I Rejoyce to think, that many were there preſent, whoſe relation of that Tranſaction, has done me the juſtice of a vindication, and given our *Tryal* the Credit; which it is utterly impoſſible for the endeavours of *S. S.* and his *malicious Cabal*, ever to diminiſh or traduce.

He makes it a *Capital Crime* to aſſert the *Jury*, *Judges of Law and Fact*, but poorly ſhifts off thoſe Arguments aptly uſed by the *Author* of the Tryal, in defence of his poſition: for farther ſatisfaction I referr the Reader to the Fourth Part of this Diſcourſe.

He ſays I was commanded to the *Bale-Dock* for *Turbulency* and *Impertinency*: I confeſs, if I had been as Guilty as I was innocent, of being ſo offenſive, they had been very incompetent Judges, whoſe own paſſion rendred them ſo much what they ſay of me, that many Spectators queſtioned, *If they were themſelves.*

They that read the Tryal may quickly inform themſelves of my kind of *Impertenency*, and with the ſame trouble, of their *Billingſgate Rhetorick*, in Phraſes ſo ſcurrilous, that never did *Men* ſubject themſelves, to a more deſerved Cenſure of want of common Civility, then at our *Tryal.*

But the man breaks forth into an *extatical Caution*, to *Page* 2. thoſe of the *Long Robe*, leſt we ſhould aſſaſſinate their Perſons, at leaſt beſiege and rifle *their Weſtminſter Hall*: His words are theſe, *Now Gentlemen of the Long Robe, look to your ſelves, and your* Weſtminſter *Hall.* And why? Becauſe *that Juries are affirmed to be Judges of Law and Fact*; as if that were an overthrow to the Law, that the moſt learned and honeſt of the *Robe* made an hearty Profeſſion of, in the ſence urged.

But I appeal to thoſe of the *Long Robe*, (as he ſtiles them) whether ſuch Arbitrary Proceedings, as over-ruling all *Pleas*, *Verdicts*, *Priſoners*, and *Juries*, at the rate of the *Old-Baily*, 1ſt, 3d, 4th, 5th of *September*, 1670. with their ſevere Rebukes and harſh Menaces, be not more apparently deſtructive, of the Fundamental

damental Laws, in the free courſe of them, and practice of Lawyers; then the Authors *Aſſertion*, in his Diſcourſe of the *Peoples Antient and Juſt Liberties, &c.*

He urges this Caution to the *Lawyers*, with no ſmall pretence to *Reaſon* and *Rhetorick*; For ſays he, *If that theſe learned Reformers of Religion, ſhall likewiſe reform your Laws and Methods of Proceedings (as doubtleſs they deſign it) farewel then to your great Acquiſitions, &c.*

But I muſt tell him, that as he is an incompetent Judge of Religion, that practices ſo little of any, ſo I publiſh a plain Challenge to him, and the old *Man* within the *Curtain (the Oracle of his Law Gibberiſh)* to produce an avow'd Inſtance, by any *Lawyer*, of the Irregularies and Arbitrary Actions, they vainly attempt to defend.

And whether our well-meant Plea, for Engliſh Priviledge, be moſt deſtructive of great Acquiſitions, *or their unhinging the well hung Laws of* England, to turn all Tryals upon the ſole *pin of Will and Power*, let the very *Lawyer* judge.

I affirm, ſuch give the juſteſt ground of bidding farewell, to all great *Acquiſitions*, that are ſo ready to welcome. *INQVISITIONS.*

He ventures to urge the *Great Charter*, and to give an Expoſition, as *ridiculous*, as the other is *fictitious*; his kindneſs for the Law, *being to kill it, in palliating his real fear, and abhorrence of all good Laws, with his pretended reſpect for them.*

But of this I will ſay little, leaving it to an whole part by it ſelf; and proceed to conſider the reſt of his *Wild* Reflections.

His compariſon of us to *John* of *Leyden*, is ignorant and malicious. *Ignorant*, becauſe he ſeems to know no better our Principles, that utterly abhor to promote Religion by Blood. *Malicious*, becauſe he ſlanders us, without the leaſt deſert; *and ſeems not ſo much to heed the Truth, as odium of his Compariſon:* And but that it is a vulgar Trick, to put the *Woolfs Skin upon the Sheep, and the Sheeps Skin upon the Woolf*, I ſhould enlarge upon his ugly Epithites.

Part II.

S. S. his Answer to the pretended Calumnies of the TRYAL Considered.

HAving given my self a loose shake of the *Calumnies* of his first *Section* (saving that part which concerns the power of Juries, to be considered by it self) I shall descend to examin his second, if possibly I may find more of *Truth, Sence, and Civility.*

He pretends to so much Scripture (and which is worse, applies it to his own shame) as to front his second *Section* with the 9th and 10th Verses of the Epistle of *Jude.*

Ver. 9. Yet *Michael*, the *Arch-Angel, when contending with the Devil, he disputed about the Body of Moses, durst not bring against him a railing Accusation, but said, The Lord rebuke thee.*

Ver. 10. *But these speak evil of those things which they know not:*

Upon this *Text* he preaches thus. pag. 4.

These People called Quakers (if they are to be believed) *will tell, they have this Angellical Spirit, the Meekness of* Moses, *the Patience of* Job, *and all other Graces; but the contrary appears, fol. 37. of* W. Penns *Book, vide this Passage.*

But above all, Dissenters had little reason to have expected that boarish fierceness from the Mayor of London, *when they consider his eager prosecution of the Kings Party under* Cromwels *Government; as thinking he could never give too great a Testimony of his Loyalty, to that new Instrument, which makes the old Saying true,* viz. *That one Renegado is worse then three* Turks.

To which I answer, not as *W. P.* but as one they call a *Quaker*, His application of the first Scripture will be this.

If *Michael* did not bring a railing Accusation against the *Devil*--then the *Author* of the Tryal should not have brought one against *him.*

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It is so plain what he has said of him, that we need not further *blacken him.*

But this latter part, he grosly mis-understands, and mis-applies; for tis deny'd, that any part of this Scripture affords one just Reproof, of that so much abused *Author.*

We know how frequently the *Devil* himself has taken to the Scriptures for a Refuge; and after this mans strange construction, *it will be railing to tell a man his Faults*: And truly, when I seriously consider, how gross and numerous his are, as by his very Book appears, *methinks he was hard put to it for a Covert.*

A railing Accusation, *is a false*, as well as wrathful one, which he proves, pag. 5. therefore a true, though sharp reproof is none.

I know it is the humor of such, who would live unrebukt, to *render it more criminal to reprehend, then to commit a Fault*; that they may save their heads from the knock of just censure.

But who the *Railer* was, we shall take leave to mention in its place: However, what has this to do with *W. P.*

The second Verse we are equally unconcerned in. Could he have found a Text that says, *But these speak well of those things they knew not*; he might have more approacht the matter by excluding our science in the Law, in owning our great Good-will unto it. Of the latter, our Tryal, as by him represented, is a demonstration; but I could wish he were no worse, then those concerned in that Scripture, *which was, to speak evil of things they knew not*: For I am perswaded, *he spoke malignantly evil of things he knew did not deserve it.*

We do not only tell the World, the tendency of our Doctrine is to incline mankind to *Meekness*, and *Patience*, *&c.* but we bless the God of Heaven and Earth, many ten thousands do believe the same; and that on better Evidence, then hear-say, or bare report.

But whether *S. S.* or his Juncto, can with any tollerable shew of modesty condemn the *Quakers*, as destitute of *Meekness* and *Patience*, who have so much wanted both, as they (Instrumentally)

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